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LONDON
AND
LONDONDERRY

TRANSACTIONS
OF
THREE CENTURIES

*Considered from a Historical and
Legal Standpoint*

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"Sic vos non vobis"

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PREFACE.

PARLIAMENTARY discussions and press references to the matters dealt with in this treatise, have not hitherto furnished to the public the material on which any well-considered opinions could be based.

Favourable opportunities have been availed of for investigating the many voluminous records which contain all that can be considered historical on the subject ; and the result of a very close investigation is now given in the most condensed form, compatible with lucidity.

Many current statements, though of importance, have been excluded, because not contained in the records referred to, and care has been taken to keep within the accurate limitations indicated in the title.

J. C. W.

BELFAST,

April, 1890.

P 57814

LONDON AND LONDONDERRY.

SECTION I.

THE GOLDEN AGE OF THE PLANTATION.

IN 1608, the greater part of six counties in the province of Ulster, viz., Donegal, Fermanagh, Cavan, Tyrone, Armagh, and Coleraine, had, upon the attainder of the Roman Catholics in the recent rebellions (that of O'Neill and O'Donnell, and that of O'Dogherty), escheated to and were then absolutely vested in King James I. in right of his Crown; and about that year King James, with the advice of his Privy Council, was desirous of planting a settlement of his Protestant subjects on the escheated lands,^(a) His Majesty's object being to secure the peace and welfare of Ulster by establishing and securing the Protestant religion there, and replacing the rebellious Irish by English and Scotch settlers, together with such of the natives as might be willing to conform to the English religion and English customs.

Occasion of
the Plantation.

In pursuance of this design a collection of Orders and Conditions were issued by the Privy Council,^(b) addressed to all undertakers. In the preamble it is stated that the King, "of his princely bounty, not respecting his own profit, "but the peace and welfare of that kingdom, *by the civil "plantation of those waste and unreformed countries*, is "graciously pleased to distribute the said lands to such of "his subjects, as well of Great Britain as of Ireland, as

Orders and
Conditions.
1608.

Qualifications
of undertakers.

(a) *Skinner's Company v. Irish Society*; Case for Respondents, the Mayor and Commonalty and Citizens of London, p. 3; Appendix to Case for Respondents, p. 148.

(b) Appendix to Case for Respondents, pp. 146-149.

"being of merit and ability shall seek the same, with
 "a mind not only to benefit themselves, but to do service
 "to the Crown and Commonwealth," and complains that
 some are importunate for too large portions, "intend-
 "ing their private profit only." Three classes of under-
 takers were recognised—1st, Those who were to plant with
 English and Scotch tenants; 2nd, Servitors or Military
 undertakers; 3rd, Native Irish to be admitted as Free-
 holders. The chief difference in these three classes was in
 the quit-rent reserved to the King, £5 6s. 8d. per 1,000
 acres for the first class, and for the second where they plant
 with English and Scotch tenants; £8 for the second class
 where they leave the Irish tenants; and £10 13s. 4d. for
 the third class. All were required to have strong places
 and arms for military defence, to let their lands on the easy
 rent of undertakers, to avoid Irish exactions, and to be resi-
 dent. None were permitted to accept as tenants the "mere"
 Irish. A most important provision was that in each of the
 counties there should be a convenient number of market
 towns, and corporations for tradesmen and artificers, and at
 least one free school in every county for the education of
 youth in learning and religion. Authority was given to all
 but the third class to create manors, and the British under-
 takers were offered the privilege of importing from Great
 Britain for three years, free of custom, everything requisite
 for placing the plantation on a satisfactory footing. In
 July, 1609, Commissioners were appointed, with instruc-
 tions to survey the escheated lands, and divide them into
 convenient parcels,^(a) allocating suitable sites for towns.
 From these it is evident that to promote the general
 interests of the whole realm was the King's object, not the
 private profit of the undertakers.

The King's
Rents.

First Survey.

Proposals for
the Londoners'
Settlement.

As early as 1609, the King showed great anxiety that
 the County of Coleraine should be undertaken by the City
 of London, probably thinking that powerful Corporation
 better fitted than individual undertakers to attempt the

(a) Appendix to Case for Respondents, p. 149.

most important and difficult part of the work ; for from the first he meant this county to form the kernel of the whole Plantation, as furnishing the easiest means of communication with Great Britain. Accordingly, proposals were made in His Majesty's name about 1st July, 1609, through the then Lord Mayor, that the Corporation should undertake the task of restoring the city of Derry and the town of Coleraine, and planting the rest of the county with undertakers.^(a)

These proposals were supported by a printed copy of *Motives and Reasons, &c.* "Motives and Reasons to induce the City of London to undertake the Plantation in the North of Ireland."^(b) These included the offer of the customs for twenty-one years at 6s. 8s. per annum, the fisheries of the Bann and the Foyle, free licence to export wares grown on their own lands, and the admiralty of Tyrconnell and Coleraine. To this was added a glowing description of the commodities for food, manufactures, and commerce yielded by the North of Ireland, its sea and rivers ; and the profits held out to London were summed up in the following all-important statement :—

"If multitudes of men were employed proportionally to these commodities which might be there by industry attained, many thousands would be set on work to the great service of the King, strength of his realm, advancement of several trades, and benefit of particular persons, whom the infinite increasing greatness (that often doth minister occasion of ruin to itself) of this city might not only conveniently spare, but also reap a singular commodity by easing themselves of an insupportable burthen which so surcharged all the parts of the city that one tradesman can scarce live by another, which in all probability would be a means also and preserve the city from infection ; and by consequence the whole kingdom, of necessity, must have recourse thither, which persons pestered or closed up together can neither otherwise or very hardly avoid.

(a) Case for Appellants, p. 2 ; Appendix, &c., p. 150. (b) *Ibid.* pp. 150-152.

"These colonies may be a means to utter infinite commodities from London, to furnish the whole North of Ireland, which may be transported by means of the rivers of Bann and Lough Foyle into the counties of Coleraine, Donegal, Tyrone, Armagh, and Antrim."

As a further spur to the City to undertake this "pious and patriotic purpose," and in particular to restore the city of Derry, the example of Dublin, restored by the citizens of Bristol in the reign of Henry II., is cited for their imitation.

Advantages
held out to
the City of
London.

From all this, bearing in mind that the Orders and Conditions for undertakers of the previous year must be held binding on the Londoners as well (except as subsequently modified, *e.g.*, in the amount of the quit-rent), it is evident that the following were the advantages offered to the City, viz. :—

1st. An abundant supply of raw material for their manufactures, with the advantage of procuring these under favourable conditions.

2nd. A large supply of articles to create a profitable commerce.

3rd. An extensive and convenient market for their wares of all kinds (*infinite commodities*).

4th. The relief of the City from over-population, and the establishment of the surplus in circumstances where they could have an easy livelihood.

No individual
personal gain
offered.

There is not the slightest hint as to the acquisition of personal gain by any individual member of the Corporation, or by the members generally^(a) (which may have been one reason why strong pressure was required, and in the case of the Companies actual threats). In fact, *the easy rents of undertakers*, taken in connection with the forced levies afterwards raised, negatives such a supposition, and the mention of benefit of the particular persons who were to be settled on the lands (that is, the future tenants) conclusively proves that direct personal gain was not intended

(a) See Case of the Mayor, &c., of London, p. 4.

for any others. But the benevolent and patriotic intentions of His Majesty have been sadly eluded, as the after history will show.

On 1st July, 1609, the Court of Aldermen (the Legislative of the Corporation, as the Court of Common Council is the Executive) sent a precept to each of the Companies desiring them to appoint representatives to consider on what terms they would be willing to undertake, and to report by 5th July.^(a) A similar precept was issued on 14th July, requiring the Companies to give in their answer in writing.^(b) Their answer displeased the Lords of the Privy Council (in other words, they refused to undertake), as we see by the report of the Court of Aldermen, 18th July, in which the City appoint a Committee of their own "to treat and confer concerning the Plantation, and to make report to the Lord Mayor and Court of Aldermen"^(c) (not to the Companies or to their Committee). On July 22nd, after the report, a precept was issued to the Companies requiring them to ascertain "what every particular man will *willingly* adventure;"^(d) and on 24th July, a further order was issued requiring the Companies to have a full meeting to ascertain what each man "will WILLINGLY "CONTRIBUTE to the furtherance of so noble a project," and requiring absent members to be noted, in order that they might be *finéd for contempt*.

The Companies invited by the City to undertake.

The City take action, ignoring the Committee of the Companies.

On 1st August, 1609, the Court of Common Council appointed four viewers to "survey the place and grounds intended for the new Plantation, *and to make report to this City*."^(e) These gentlemen having made their report, a further Committee was appointed to confer with them on 2nd December,^(f) and on 15th December the Court of Common Council approved of certain demands to be made on behalf of the City,^(g) what money should be expended, what

Viewers appointed.

(a) Appendix to Case for Respondents, p. 152.

(b) *Ibid.* pp. 152, 153. (c) *Ibid.* p. 153.

(d) Pleadings in Chancery, *Skinner's Company v. Irish Society*, pp. 455, 456.

(e) *Ibid.* pp. 458, 459.

(f) Case for Appellants, in the Lords, pp. 47, 48. (g) *Ibid.* pp. 48, 49.

Demands on
behalf of the
City.

things should be performed, and how all should be ordered. The money proposed to be expended was £15,000, to be raised "*in the Companies by the poll according to the corn rate,*" some inferior Companies to be spared, but not the *able men* in them. The demands were, in addition to what the King had already offered, the woods of Glenconkene and Killetrowe for building, with church patronage, and the rents of the 7,000 acres (4,000 for Derry and 3,000 for Coleraine) to be 53s. 4d., or about one-fifteenth of that required of ordinary undertakers, with restrictions on exports, save by licence from the city officers of Derry and Coleraine, and certain further liberties, with forces for defence maintained at the King's charge. What was to be done was to build 200 houses at Derry and leave room for 300 more, and to build 100 at Coleraine and leave room for 200 more, and to make fortifications for defence. The management was proposed to be by means of a Committee constituted in London (afterwards the Irish Society). On December 22nd, £5,000 more was voted for the "clearing of "private men's interests."^(a) By agreement of 28th January, 1609 (1610), with the Privy Council, the demands were conceded with slight modifications, the chief being to require sixty houses at Derry and forty at Coleraine, to be finished by 1st November following, and the rest of the houses by 1st November, 1611.^(b) On 9th January, a precept was issued to the Companies by the Lord Mayor in Common Council for the immediate levying of £5,000, the first instalment of the £20,000.^(c) On 19th March, 1611, a precept was issued for the levying of the residue.^(d) The precept of 9th January terminated with the significant words—"Wherein you are not to fail, as you will answer "the contrary."

These precepts
a *taxation*, not
a proposal for
a purchase.

Now, it is worthy of note that these two latter precepts, with numerous others for the raising of further sums of money, are not by way of invitation to purchase, but

(a) Case for Appellants, in the Lords, p. 49. (b) *Ibid.* pp. 51, 52.

(c) *Ibid.* p. 50. (d) *Ibid.* pp. 53, 54.

authoritative and peremptory. The levies were in fact a *tax*, and a tax not to be levied *on* the Companies, but *in* the Companies. This was then the regular method of raising money for any and every public purpose. The Corporation, either receiving notice from the King what amount was required from the City, or themselves resolving on some taxation for a municipal or other public object, apportioned the *taxation* among the different Companies, requiring each to raise its quota among its own members. No other method would then have been so convenient, as *every* burgess was required to be a member of some one or other of the Guilds or Companies; and over these Companies the Corporation of London exercised a sway, both legislative and executive, that was practically absolute. In proof of this, we find members and officers of the Companies fined, expelled, or committed to prison by orders of the Courts of Aldermen and Common Council,^(a) the corn rate assessed on all the Companies,^(b) soldiers raised and ships ordered to be built,^(c) and the expenses of State pageantry^(d) levied by the same authority. This fact is of itself sufficient to refute the claim that the lands in County Derry were "purchased" by the twelve Companies and their associates, as some of them had the hardihood to allege in their returns to the "City of London Liveries Commission" in 1882, even after the decision of the House of Lords in 1839, in the case of the Skinners' Company *v.* the Irish Society. Indeed, the very word "taxation" occurs in one of the precepts, and Mr. Kindersley, for the Irish Society, in 1838, strongly maintained and proved by the facts of the case and numerous other instances that it was *taxation*, compelling the Companies to be "volunteers," as they style themselves. The Companies allege that the City were their "agents" in the whole transaction, but it is a curious kind of agency where the "agents" compel their principals to disburse sums of money, threatening them

A strange form of "Agency."

(a) Appendix to Case for Respondents, pp. 452, 453. (b) *Ibid.* pp. 453, 454

(c) *Ibid.* pp. 455-457. (d) *Ibid.* pp. 457-458.

with penalties if they refuse. A slave-driver would, on this principle, be the "agent" of the slaves he whips, or a rack-renter the "agent" of the tenants from whom he exacts his rents.

By decree of Common Council, 10th July, 9th James I. (1611), £20,000 more was levied by the same "agents,"^(a) but liberty was in this instance offered to the Companies to decline paying their quota, if they were content to lose their previous contributions. Two minor Companies accepted this alternative, and their shares were transferred to the Corporation of London.

On the 14th January, 1610 (1611), power was given by the Common Council to the Committee of the Corporation (afterwards the Irish Society) to divide the lands among the Companies that were willing to accept them, "and so "to build and plant the same" [the Plantation] "*at their own cost and charges accordingly, as by the Printed Book of Plantation is required.*"^(b) (That is, the lands were *not* to be granted as the private property of the Companies.) The alternative offered by the Lord Mayor was "that "you will refer the letting and disposing thereof to the "Governor and Committee." By the 28th February, eight of the principal Companies had expressed their willingness to accept the lands, and the other four afterwards consented also.

The alternative offered.

Answers to the Lord Deputy.

In 1610, certain propositions were submitted to the Privy Council from the Lord Deputy, Sir Arthur Chichester, to which answers were returned, including the following points:—(2) "The Londoners are to plant their lands as "other undertakers do, excepting the special privileges "excepted in the Articles. (25) The Londoners are *first* to "provide habitations for such poor and necessary men as "they draw thither for their business, and afterwards to let "for such rents as shall be fitting *as well for the good of the "Plantation* as for some valuable rent (THE CHARGE CONSIDERED), *the Londoners always performing the Articles of*

(a) Case for Appellants, in the Lords, p. 57. (b) *Ibid.* p. 55.

"Plantation."^(a) It would appear from this that the subscribers were intended to recoup themselves for their outlay, but this was never done; the Companies, when they obtained the lands, adding *all* the proceeds to their corporate funds, instead of repaying their members who had been taxed.

The King always continued to display the anxiety for the welfare of the tenants (then future) that appears from this 25th Answer (a good example, which appears to have been uniformly followed by Charles I., but to have gone into disuse afterwards), and therefore was in no hurry to grant the Charter, and have the lands finally assigned, until the preliminary conditions were fulfilled. His caution was fully justified, even at this early period.

The King's anxiety for the good of the tenants.

In 1612 a letter was sent to the King, seemingly by Sir Thomas Phillips,^(c) which stated, "They should have built before this at the Derrie 200 houses, and now there are not 20." "The Londoners, seeking manifestly their own private advantage, neglect the common good, and convert much timber to merchantable uses." The *scire facias* will prove this last charge true.

Shortcomings of the Londoners.

On the 21st December, 1612, the King wrote to Sir A. Chichester, quoting these complaints, stating, "If there were no reason of State to press it forward, yet we would pursue and effect that work with the same earnestness, merely for the goodness and morality of it, esteeming the settling of religion, the introducing of civility, order, and government among a barbarous and unsubjected people, to be the acts of piety and glory, and worthy also a Christian Prince to endeavour;" and after giving numerous directions, he concluded—"Once again we do strictly enjoin you to give us a faithful account of the trust which we repose in you, without care or fear to displease any of our subjects, English or Scottish, of what quality soever."^(c)

The King's letter, 1612.

(a) Hill's *Plantation in Ulster*, pp. 407, 415. (b) *Ibid.* p. 420.

(c) Case for Respondents, the Irish Society, p. 22; Pleadings in Chancery, p. 519.

The Charter of
King James I.

Incorporation
of the Irish
Society for
Plantation
purposes.

Lands granted.
Timber
reserved for
Plantation
purposes only.

This letter probably produced good effects for the moment. At all events, on 29th March, 1613, the first Charter was granted, *not to the Companies*, which had never yet been mentioned by the King or his advisers, but to the Irish Society, as representing the Corporation of the City of London for Plantation purposes. The preamble enumerates the "*pious and patriotic purposes*" which the King had in view, and credits the Mayor, Commonalty, and Citizens of London with a "flagrant zeal to promote this our pious intention," and with having made progress therein.^(a) The Charter then directs the formation of the County of Londonderry, then first so named, defines the jurisdiction of Derry and Coleraine, and incorporates the City under a specified government, subject to the Irish Society, which is constituted and incorporated "for the better ordering, directing, and governing all and all manner of things for and concerning the City and Citizens of Londonderry aforesaid, and the aforesaid County of Londonderry, and the Plantation to be made within the same City and County of Londonderry, and other businesses belonging to the same,"^(b) giving the Society power to purchase and hold in fee, *for these purposes*, lands, goods, &c., in England or in Ireland, to have a common seal, and to sue or be sued.^(c) It also nominates the first members, and provides for the election of half their number (except the Governor and the Recorder of London) each year.^(d) Several formal provisions follow, and then comes the grant of the lands, including the barony of Loughinsholin, taken from Co. Tyrone, and a grant of the timber of Glenconkene and Killetragh *only* for the Plantation, "and the building of Houses and Edifices, . . . and to be spent towards other necessary uses of our aforesaid realm in Ireland,

(a) Case for Respondents, the Irish Society, p. 22.

(b) Appendix to Case for Respondents, pp. 224, 225; Case for Respondents, the Irish Society, p. 22.

(c) Appendix to Case for Respondents, p. 269; Case for Respondents, the Irish Society, p. 24.

(d) Appendix, &c., p. 220; Case, &c., p. 24.

“ . . . and not for any other causes to be merchandized “and sold.”^(a) The fisheries of the Foyle and the Bann to Lough Neagh are also granted,^(b) and covenants of further assurance are added. Power is also granted to create manors and establish manor courts.^(c) Some minor privileges are also granted—some temporary, some perpetual—and some specified duties, military and ecclesiastical, are imposed.

On the face of this Charter it is evident that the Irish Society were in no sense intended to be beneficiaries from this grant, but merely Trustees for public purposes. This is proved, not merely by the specific duties imposed on them, but by the following all-important considerations:—1st, The Society were incorporated and received their powers for *Plantation purposes only*; 2nd, The timber granted them was forbidden to be made matter of merchandise, being reserved for *Plantation purposes, and other necessary uses in Ireland*. In this latter respect, therefore, the duties were more extensive than the delegated authority. (The supposition that they were trustees for the Companies, as afterwards alleged by the Skinners' Company, is unworthy of serious consideration, for the Companies had not yet been mentioned by the Crown.) It must be added that all the Crown proposals previously are to be taken along with the Charter, which refers back to them, viz., the Orders and Conditions, the Motives and Reasons, and the Articles of Agreement with the Privy Council. It has been shown before that these do not include but exclude private or individual gain. The Charter to the town of Coleraine, June 28th, 1613, in no way modifies any of the trusts.

After a view of the lands by two plenipotentiaries appointed by the Court of Common Council,^(d) Messrs. Smithies and Springham, the lands were divided among the

(a) Appendix to Case for Respondents, p. 269.

(b) *Ibid.* p. 254. (c) *Ibid.* pp. 274, 277-278, &c.

(d) Case for the Respondents, the Irish Society, pp. 23, 24.

twelve Companies by Act of Common Council, December 17th, 1613, the ferries, fisheries, and town lands (of Derry and Coleraine) being reserved for the management of the Irish Society, in accordance with the recommendation of the viewers.^(a)

Further
derelictions of
the Londoners.

The King still observed his praiseworthy caution. The conditions imposed on the undertakers, especially that prescribing the *easy rent of undertakers*, and those for completing with due speed the buildings of Derry and Coleraine, were systematically neglected, and the policy of "grab-all" (to use the words of Mr. Lea, M.P., 1889) was begun by the Companies. This is proved by the letter of Mr. G. Canning, agent for the Ironmongers' Company, in May, 1615 (besides other evidence)—"Here are some English "and Scotch which are willing to deal with me for some of "your townlands, and hardly any of the English comes to "the rents they are now at, *if they build at their own charge*" (a condition not warranted by the King's grant). . . . "If the natives do depart from off the City lands, *the prices* "will doubtless fall. I desire to be fully instructed upon "what conditions and covenants I may *safely* set part of "your lands to the natives."^(b) In the summer of 1615 Sir Josias Bodley was sent to report on the state of Ulster. His report was most unfavourable,^(c) and gave rise to King James' letter to Sir A. Chichester, 31st August, 1615, directing a new survey by Sir J. Bodley, and that the Londoners and all other planters be required to repair their defects and omissions, concluding with the following postscript *in the King's own hand*:—"My Lord, in this "service I expect that zeal and uprightness from you, that "you will spare no flesh, English nor Scotch, for no private "man's worth is able to counterbalance the particular "safety of a kingdom, which this Plantation, being well "accomplished, will procure."^(c)

King James'
letter of 1615.

(a) Case for Respondents, the Irish Society, pp. 24-25

(b) Hill's *Plantation in Ulster*, p. 449.

(c) Case for Respondents, the Irish Society, p. 27.

This letter, and the subsequent investigation in 1616, must have frightened the Londoners into a better fulfilment of their duties for the time, for, on 30th September, 1616, the King granted a licence to the twelve Companies to hold in mortmain whatever lands, &c., the Irish Society or others should be *willing* to grant to them. In the preamble they are praised in a measure for what they have already done "to effect and bring to end the said pious and worthy work."^(a)

Licence to hold in Mortmain.

This was followed by grants from the Irish Society to the twelve Companies of the lands allotted to them, by erecting manors and then granting feoffments. (This was changed into a lease and re-lease after the new charter of Charles II.)^(b) All the grants, and the new ones in the reign of Charles II., contained a reservation of the timber and other building materials, as well as the rights of fishing, fowling, hunting, and hawking,^(c) and some, but not all, reserved a quit-rent, and all contained a reservation of a right of re-entry if the conditions of the grant were violated.

Grants by the Irish Society to the Companies.

That the Companies were, and were intended to be, Trustees is clearly proved—1st, By the fact that the licence only permitted them to receive from the Irish Society what the Society should be *willing* to grant, &c.; *i.e.*, they were not given a right to claim anything whatever, they were not treated as having made a purchase, as they now assert. 2nd, The Irish Society imposed on them the conditions of the Plantation, reserving not merely what the Charter required to be reserved, but several other rights and privileges. 3rd (perhaps most important of all), The Irish Society were themselves *Trustees* (as has been proved above), and therefore could not convey the lands freed from the Trusts; they could not, in fact, grant more than they

The Companies Trustees.

(a) Case for Respondents, the Irish Society, p. 28. Appendix to Case for Respondents, pp. 327, &c.

(b) Case for Respondents, the Irish Society, p. 28.

(c) Appendix to Case for Respondents, pp. 335, 338; Case for Appellants, in the Lords, pp. 264, 270, 275, 280, 285-286, 289, 293-294, 299, 305, 310.

themselves possessed, and they actually granted less, reserving certain specified powers for the benefit of the Plantation. 4th, The Companies themselves implicitly recognised their fiduciary position, when underletting, by requiring their undertenants to perform the conditions of the Plantation,^(a) and all covenants made with, and regulations of, the Irish Society.

The Londoners
again
transgressing.

Full particulars of the proceedings of the Londoners for the next eight years are not preserved, but there is abundant evidence that they again showed themselves more anxious for their personal gain than for the fulfilment of the trusts committed to them. We find in this interval the Irish Society beginning in 1623 the evil practice of dividing the "surplus" of the "undivided estate" among the Companies. This was at first probably under the mistaken notion of recouping the contributories for the tax laid upon them (which was augmented from time to time, as we find in the days of Charles I. the amount expended on the Plantation by the City variously estimated from £130,000 to £150,000); but as the Companies added the money to their corporate funds, never repaying one farthing to their members that were taxed, this was sheer robbery of the Plantation. But we find that in 1620 an information was laid against the Londoners for neglect to carry out the works required, and that sequestration was granted.^(b) This does not appear to have been enforced, but it is important as proving the proceedings under Charles I. not to have been arbitrary, as has been sometimes alleged. Again, in 1624, 2nd June, there were read at a Court of Common Council complaints from the Privy Council of defects in the work done, one item being that the 4,000 acres had not been laid to Derry and the 3,000 to Coleraine as required;^(c) and the Common Council had the audacity to reply (in the teeth of the Articles of Agree-

(a) Appendix to Case for Respondents, p. 328, in lease to H. Cary from the Skinners' Company.

(b) Appendix to Case for Respondents, p. 132.

(c) Case for Appellants, in the Lords, p. 77.

ment) that they were not bound to pass the 4,000 acres, but had *in favour* allotted 1,500, and would allot more to houses as they should be built, and they admitted that Coleraine had received only 500 acres.^(a) That is, the two towns had been *plundered of part of their lands* since 1616, for in that year Messrs. Probie and Springham certified that Derry had already to the Mayor and houses 3,217 acres, and for a free school 300 acres, and that Coleraine had 1,826 acres, with Sir Randall M'Donnell's promise to make this up to 2,260 acres.^(b)

With this terminated the efforts of King James to keep the Irish Society and the Companies in the path of duty towards the Plantation. The reign of his successor, Charles I., was more stirring, and the leading transactions are of transcendent importance for the present day. Articles sent by His Majesty's special direction from the Privy Council were read at a meeting of Common Council on 27th May, 1625, of which the following are of special significance.^(c) “(9) The lands to be past, some in freehold, some in leases for lives, and none for years certain, “thereby debarring them from transferring their estates to “other men, and so depart from their holdings and from the “kingdom, *we wish the rent were made certain by the acre,* “according to the goodness thereof. (13) That every of the “twelve Companies do make six freeholders of one Balliboe” (*i.e.* 60 acres) “at least upon every portion, and ten lease- “holders for lives to whom they are to set lands, *to the free- “holders for ninepence English the acre, and to the leases for “twelvepence the like money, so as they cannot resume or reserve “as much as shall serve for the freeholders and leaseholders at “the rent aforesaid* . . . the rest of their lands they may “set for lives to the natives who are conformable in religion “with us, and shall take the oath of allegiance and supremacy, “learn our language, wear our fashion of apparel, and resort

The first
Articles of
Charles I.

(a) Case for Appellants, in the Lords, p. 78. (b) *Ibid.* p. 76.

(c) Case for Appellants, in the Lords, p. 80; Appendix to Case for Respondents, p. 80.

FAIR RENT
FIXED.

"to our churches . . . and for this favour they may be induced to double their rents, as other undertakers who have broken their condition of Plantation are to do." We have here the principle of a fixed fair rent laid down plainly, showing that this is not an innovation of the nineteenth century, but a partial restoration of the original objects of the Crown. To the 9th the Common Council answered that it was at present impracticable, but would be obeyed as soon as circumstances allowed.^(a) To the 13th it was answered that the freeholders were already established as required, and the leaseholders on one estate at rents less than that commanded; that the other Companies could not obey at present, having let their lands at long terms, but would obey when practicable; and it was petitioned that they should not be required to charge the conforming natives the double rent.^(b) [A strange case indeed, landlords anxious (seemingly) to obtain low rents!!! None of the Companies have shown such anxiety in recent times.]

The three
informations
in the Star
Chamber.

The transgressions of the Irish Society and of the Companies appear to have continued as before, for in 1631^(c) an information was laid in the Court of Star Chamber by the Attorney-General for repealing the Charter [on grounds mentioned in the Judgment of the Star Chamber and the *scire facias* (to be afterwards quoted)] against the Corporation of the City of London. A second information^(d) was laid in 1632, joining the Irish Society, on which a fine of £70,000 was imposed, and the letters patent of March 1613 ordered to be cancelled. The estates not being surrendered, a third information^(e) was laid, in which the Companies also were joined, and a commission of inquiry into the lands, &c., was issued out of the Court of Exchequer. A writ of *scire facias* was also issued out of the Court of Chancery, and judgment given in Hilary, 1637 (old style), that the letters patent of 29th March, 1613, and

The judgment
of Star
Chamber and
the *scire facias*.

(a) Case for Appellants, in the Lords, p. 80. (b) *Ibid.* p. 81.

(c) Case for Appellants, p. 13; Appendix to Case for Respondents, p. 136.

(d) Appendix to Case for Respondents, p. 136; Case for Appellants, p. 14.

(e) Appendix, &c., p. 136; Case for Appellants, p. 14.

the enrolment thereof, be cancelled and annulled,^(a) and the premises granted to the Irish Society seized into the hands of the King.

Technically speaking, the judgment of *scire facias* and that of the Court of Star Chamber are two distinct documents; but in dealing with the same subject-matter, and in their practical legal effect, they are one, and as such must be here considered. The charges they bring against the Londoners, and for which they declare the Charter annulled, and the estates estreated, are chiefly the following:—1st, Unduly and deceitfully obtaining the letters patent, “under pretence “of a due observance of the articles;”^(b) 2nd, Obtaining more land than it was the King’s intention to grant^(c) (97,000 acres of fertile land, instead of 27,000), the rents mentioned being “one hundred and ninety-three pounds, “eight shillings and fourpence, and no more;”^(c) 3rd, The neglecting to plant with English and inland Scots, and illegally leaving many of the “mere Irish” (names being given) in possession of the lands;^(d) 4th, Rack-renting of an atrocious type. “Their Agents . . . do still continue “the natives upon the said Plantation, and paid the Fines “imposed upon them, according to the said Proclamation, for “not departing from the British undertaken Lands, *because “they would give greater Rents for the said Lands than the “British were able to make and live upon*, and did prefer the “Irish before the English, because they pretended they were “more serviceable unto them, by which means, AND BY THEIR “EXCESSIVE RAISING THE RENTS FROM FORTY SHILLINGS “AND FIFTY SHILLINGS A BALLIBOE, UNTO TEN POUNDS, “TWELVE POUNDS, AND TWENTY POUNDS AND THIRTY “POUNDS A BALLIBOE, the English were and are much dis- “heartened, and the natives do far exceed the British, &c.,”^(e)

The charges against the Corporation of London, the Irish Society, and the twelve Companies, in the two judgments.

(a) Appendix to Case for Respondents, p. 137; Case for Appellants, p. 14 (giving date 1638).

(b) *Scire facias*, Appendix, &c., p. 419; Judgment of Star Chamber, Case for Appellants, p. 194.

(c) *Scire facias*, Appendix, &c., p. 422. (d) *Ibid.* pp. 422 424.

(e) Judgment of Star Chamber; Case for Appellants, in the Lords, p. 196.

5th, Spoliation of the Plantation and fraud on the Crown by cutting down the woods *for merchandise* instead of for Plantation purposes to the extent of one million oaks, two thousand elms, and two hundred thousand ash trees, of the value of £550,666 13s. 4d.^(a) (Minor charges of neglecting building houses, fortifications, and schools, and other breaches of the Articles, are here passed over; but it is noteworthy that *none of these was ever denied by anyone on behalf of either the Irish Society or the Companies.*)

During the course of these proceedings a petition to the King was adopted by the Court of Common Council for pardon, offering £100,000 in five yearly instalments as the price thereof, on 23rd January, 1636.^(b) This was renewed on the last day of February, 1636, with the statement that the City could not compel the Companies to surrender the lands,^(c) and renewed several times afterwards. Finally, on 22nd June, 1637, the King accepted the surrender of all the grants and a fine of £12,000.^(d) The City had sought, when offering to purchase their pardon, to have the lands, &c., secured to them "*by absolute grants, discharged from all pretences of the Articles of Plantation, and all other Covenants and Claims whatsoever*"^(e) [a truly modest demand from petitioners for pardon!!!]; and again, "That they be discharged of all trusts and expectation of surplusage and other pretences upon the Royal Contract."^(e) These demands were not conceded, but on 18th October, 1638, the King (having been paid the £12,000, and received the surrender of the lands, &c.) issued a pardon for the £70,000 fine, and released the Corporation, the Irish Society, and the Companies, from all trusts respecting the Plantation,^(f) obviously on the just ground that they had no longer the lands, &c., to which the trusts attached. His Majesty (in all other respects worthy of all praise in these transactions) neglected, however, to order restitution of the immense

(a) *Scire facias*, Appendix, &c., p. 429.

(b) Appendix, &c., p. 201. (c) *Ibid.* p. 202. (d) *Ibid.* p. 205.

(e) Case for Appellants, in the Lords, p. 84.

(f) Case for Respondents, the Irish Society, p. 31.

sum of which the Plantation and the Crown had been defrauded by the destruction of the woods.

The next event of importance was the condemnation of the sentence of the Court of Star Chamber by the House of Commons in October, 1641.^(a) The principal grounds of this condemnation were: That the King was not deceived; that the citizens were not bound by the Articles of Plantation (a manifest falsehood); that there was no proof of grants of leases to "Popish recusants," or of several other charges (N.B.—These charges are not denied, but the judgment is censured for not containing the proofs!); that there was no sufficient ground for forfeit, the breach of covenant not being a crime (a curious piece of law, when the covenants were trusts imposed by the Crown in giving the grants!); that the Court of Star Chamber was not the proper court (forgetting that the judgment of *scire facias* emanated from the Court of Chancery, with the assistance and concurrence of Judges of the other Courts); that the sentence against two Corporations aggregate was unlawful, no particular person being guilty; and it was added, as a clause, "that the citizens "of London, and all those against whom the judgment is "given in *scire facias*, shall be discharged of that judgment" (no reason being given for this whatever, nor any fault, of jurisdiction or otherwise, being alleged against the *scire facias*, or the judges who pronounced it).

The condemnation by the House of Commons.

Now the facts, as briefly narrated before, and the circumstances of the case, prove most emphatically that ALL the charges brought against the Companies, and against the Irish Society (for their dereliction of duty, except in the case of the two towns), were well-founded and true. Only the first (and perhaps by implication the second) was actually denied.

The charges all proved to be true.

As to the first, that the Charter was unduly obtained (denied by the statement that the King had not been

The Charter unduly obtained in the sense stated.

(a) Case for Appellants, in the Lords, pp. 93, 94; Appendix, &c., pp. 210-211.

deceived), the words of the *scire facias*^(a) show the sense in which this is to be understood—"Under pretence of a "close observance of the Articles aforesaid." The violation of the Articles, implicitly admitted by the plea that the citizens were not "tied" to observe them, sufficiently establishes this charge.

Obtaining more land than was intended by the King.

The second charge, of obtaining more land than was intended by the King (not denied except by way of implication), is proved by two preceding authorities, though neither agrees with the exact extent of the fraud as stated in the *scire facias*. The accuser of 1612 (probably Sir Thomas Phillips), says—"The rent that the King shall "receive from them, according to the survey, will be £160 "per annum,"^(b) which, at £5 6s. 8d. per 1,000 acres, would make the total amount of arable land 30,000 acres only. Pynnar's survey, on behalf of the Crown, in 1618-1619, gives the amount of arable land for each of the twelve Companies 3,210 acres,^(c) or 38,520 acres in all. Now this was six years after the grant of the Charter, and three years after the licence to hold in mortmain, so it is evidence only as to the land *then in possession* of the Companies. While confirming the *scire facias*, therefore, as to the fact, it does not disprove it as to the *extent* of the fraud. But the fact is all that is required to justify the charge.

Neglect to plant with British.

The third charge, of neglecting to plant with English and inland Scotch, and leaving many of the mere Irish in possession, is proved by the fact of its never having been denied, and by the letter of Mr. G. Canning before referred to.^(d)

RACK-RENT-ING: a new way of performing a promise.

The charge of rack-renting, with its results and objects, never having been denied, must be taken as proved from the very silence of the accused. It is confirmed, moreover, by the letter of the accuser of 1612, "for which they "already receive near hand £2,600 per annum, which will "daily increase,"^(e) and is at all events rendered credible by

(a) *Scire facias*, Appendix, &c., p. 419.

(b) *Hill's Plantation in Ulster*, p. 421. (c) *Ibid.* pp. 576-579, 581-587.

(d) *Ibid.* p. 443. (e) *Ibid.* p. 421.

the subsequent rack-renting (of which evidence will be furnished later on), and by the reply of inability to execute King Charles' 13th order in full. This is a strange way of fulfilling the promise made to the King in 1625 to charge the freeholders only ninepence English per acre, and the leaseholders only twelpence, the natives (conforming) paying only double, especially on the part of gentlemen who were anxious not to be required to exact such high rents from the native tenants!!! No wonder cynical critics speak of the age of hypocritical cant as already set in. Of course the enormity of this offence can only be realized by taking together the King's 13th order for rents varying from ninepence per acre to two shillings at most, the reply promising compliance, and the fact stated in the judgment of Star Chamber (*a fact never denied*), of rents being raised from forty and fifty shillings a Balliboe to as high as even thirty pounds. *This proved an enticing example for the darker age that followed.*

The fifth charge is also proved by the absence of denial, and corroborated by the fact that the woods have completely disappeared long since. The spoliation of the Woods.

But apart altogether from the question whether *all* the charges were well founded, there was nothing arbitrary or unjust in the King's resuming a grant, given subject to trusts, which had been either violated or inefficiently executed. This is proved—1st, By the necessity under which King James I. was of interfering by the strongest threats to compel the grantees to fulfil their engagements; 2nd, By the information and sequestration of 1620. Of course this sequestration was not actually carried out; because the King, in his tenderness for the interests of the tenants, did not wish to punish the delinquents, but to hold it over them *in terrorem* to compel them to greater activity and faithfulness in the future; 3rd, By the claims made on behalf of the Crown by the Attorney-General in 1838.^(a) In fact, the action of Charles I. was simply resuming a con-

The King's proceedings not arbitrary, but just.

(a) Case for the Respondents; Case of the Attorney-General, pp. 10, 11.

ditional grant from the Crown, the conditions of which had been grossly and systematically violated by the grantees.

The close of
the Golden
Age.

With the energetic proceedings of King Charles I. and his advisers, the earnestness of the Crown to compel the fulfilment of the trusts, or exact the penalty in case of failure, abruptly ceases. Henceforth, for a period of not much less than two centuries, "Ichabod—the glory is "departed" may be written of the action of the Crown. The Corporation of London were already in a dead sleep, as far as controlling the Companies was concerned, while their deputed representatives—the Irish Society—had shown many strong indications of the vices and weakness of the period of the Babylonish Captivity.

SECTION II.

THE BABYLONISH CAPTIVITY.

THE re-grant by Oliver Cromwell in 1650 need not be dealt with, as it was treated as a nullity after the Restoration; but in 1662 a fresh Charter was granted by Charles II., of which an *inspeximus* copy in 1665 is in existence, a translation of which was put in evidence in the case of the Skinners' Company *v.* the Irish Society. The preamble of this Charter, after referring to that of James I., and mentioning the judgments, and the consequent resumption of the lands, refers to an intention of Charles I. to restore the letters patent of James I. exactly as they stood before the legal proceedings. This intention the new Charter purports to carry into effect. There are some variations between the two Charters, which are of two classes:—1st, Merely temporary arrangements, whether of definite privileges, such as the more particular control of the city of Derry by the Irish Society for ten years, or of express trusts already completed, such as the maintenance of Culmore Fort for a definite period (for which a fixed and permanent money payment was now substituted), are omitted; and, 2nd, Temporary trusts or privileges unexpired are appointed for such shortened period as will cover the period contemplated in 1613. (Besides, greater powers of government are in some cases reserved to the Crown.) All this only proves the care taken by Charles II. and his advisers to restore matters exactly as they stood under the Charter of James I. The Irish Society was^(a) restored with precisely the same powers of government and management as in 1613, and, as then, the first members were appointed in the Charter itself, the method of election (half each year) restored as before,^(b) and the same mandatory clause of

The Charter of Charles II.

The Irish Society restored.

(a) Appendix to Case for Respondents, pp. 218, 219. (b) *Ibid.* p. 220.

removal^(a) in case of death, departure, or misconduct—"we will to be removable and removed"—was re-enacted.

Re-grant of the
lands, &c.

The same lands, &c., as before, under precisely the same conditions, and with the same reservations of quit-rent, were granted to the restored Irish Society,^(b) and the same government and privileges granted to the city of Londonderry, with the same covenants for further assurance, the only important variation being that in several places "granted" was altered to "granted and *confirmed*," thus directly recognising the Charter of James I. as the sole basis and foundation of the new Charter.

Effect of this
Charter.

It is clear from all this that *all the trusts* existing under the original Charter of James I. sprang up afresh, *ipso facto*, of their own strength, under the Charter of Charles II. It follows at once that the Conditions and Orders, Motives and Reasons, and Articles of Agreement remain in force as interpreting and explaining the new Charter, although they are not expressly referred to, and they were rightly treated as still in force by the Counsel for the Respondents in the great Chancery suit. It may also be fairly inferred that the celebrated 9th and 13th Orders of Charles I., in 1625, still remained binding (except so far as the changed value of money may warrant modifications).

The great
mistake of
both Kings.

That Charles II., more anxious for his ease and pleasures than for the fulfilment of the duties or enforcing the rights of his Royal office, should have made mistakes, is not strange. But it does appear surprising that King James I. and his advisers (among whom were men of such distinguished abilities and wisdom as Lord Bacon and the great Burleigh) should have failed to realize the total unfitness of a body so constituted and elected as the Irish Society to manage the important interests of the Plantation. The original mistake, of course, lay with the Corporation of London; but it is astonishing that it was reserved for the nineteenth century to discover (or at least definitely express) the fundamental objections to such a plan:—

(a) Appendix to Case for Respondents, p. 221. (b) *Ibid.* pp. 254-306.

1st, The government from London, which necessitates all the active management to be by an Agent, who, from want of authority, could not interfere with sufficient promptitude to check malversation on the part of the Companies.

The Irish Society necessarily incompetent for their duties.

2nd, The total inability of a large body, half of whose members are changed annually, to understand the circumstances of the Plantation so fully as to resolve on and carry out the best measures for its well-being and prosperity.

3rd, The heavy expenses of mere management necessitated by an absentee body of rulers.

4th, The danger of the Society, meeting in London, and likely to be largely recruited from the twelve great Companies, becoming merely the tool of those under-grantees whom it was their right and duty to control, so as to keep them to the due fulfilment of their trusts.

Retaining, as before, the ferries, fisheries, and town lands under their own direct management, the new Irish Society forthwith reconveyed the divided lands to the Companies, adopting the method of lease and release to save time and expense, and making the same reservations as before ; thus once more recognising that they were Trustees, and conveyed to the Companies subject to the Trusts of the Plantation.

The lands reconveyed to the Companies

Dark days, however, followed at once. Even before the interference of the Law Courts in the reign of Charles I., the City of London appears to have given undue recognition to the Companies in electing the members of the Irish Society, and from the renewal of the Charter up to 1830 or 1831, the Corporation uniformly elected members of the Companies to the position, so that the Irish Society became practically a Committee of the Companies, servants of those whom they ought to have controlled (for of course the two permanent members, the Governor and the Recorder of London, would be utterly powerless to thwart the will of the elected twenty-four). It thus became both the interest and the pleasure of the members of the Society to abandon

The Down Grade.

all efforts at controlling the Companies, if any such had ever been put forward, and even to transfer to these bodies as much as possible of the funds that they ought to have employed for public purposes alone. We have not full information as to the exact year the division of the "surplus" among the Companies first began, owing to the destruction of some of the Irish Society's books by fire, but there is evidence that it was not long delayed. Thus we have the admission of the Irish Society and the Corporation of the city of London, "that the said Society has, "from time to time since the date of the said letters patent "of King Charles II., and whenever there has been any such "surplus as aforesaid, made payments in the nature of dividends, on the principle aforesaid, to each of the said twelve "principal Companies in respect of the said surplus."^(a) That is, members of the Companies, for the benefit of the Companies, plundered the city of Derry and the town of Coleraine, by distributing for their own corporate fund a "surplus" that could not have existed if the trusts binding on the Society had been faithfully carried out. But this was only the beginning of the "mistaken views" of their duty that characterized the Irish Society during the dreary period of the Companies' ascendancy. The City of London neglecting duty wholly, and the Crown having ceased to pay any attention to the affairs of the Plantation (an inaction which, following the evil example of Charles II., continued till the time of the great Chancery suit), the Companies, of course, did as they pleased with the lands given to their management, regarding them simply as a means of making money, in addition to the spoils handed over by the Irish Society. The lands were let to middlemen by some of the Companies on leases for lives or terms of years, the leases falling in at different times in the early part of this century; while others sold the lands as soon as they could find purchasers to their satisfaction. In the lettings to middlemen (always for a heavy fine, the least

The lands let
to middlemen.

(a) Appendix to Case for Respondents, p. 54.

being £16,000, and a moderate yearly rent, though far above the standard of the 13th Order of Charles I.) we find in all cases^(a) the lessee bound to observe the conditions of the Plantation, and all conditions and covenants imposed by the Irish Society; though, as no measures seem to have been ever taken to secure the fulfilment of this condition, it can only be regarded as a formal clause intended to save the Companies from any violation by their lessees of the trusts to which they still found it necessary in practice to admit that they themselves were subject. The monies obtained were, of course, added to the corporate property, and the work of further rack-renting was left to the middlemen, who do not, however, appear immediately to have oppressed the tenants, except in the case of Stewart of Ards, to whom the Mercers' estate was let in 1751, and that of Ogilby, who held from the Skinners.^(b) As, during nearly all the period on which we have now entered, the action of the Companies was mainly confined to the reception of money, without any attempts at management for good or for evil, the chief topic of interest will be the proceedings of the Irish Society, which we shall find, with scarcely a break, going on from bad to worse under the guidance of the Companies.

After the resumption of the lands by Charles I., the notorious Bishop Bramhall of Derry contrived to get into his hands the 1,500 acres left to the Corporation (out of pretended favour) by the Irish Society out of the 4,000 commanded by James I. to be assigned. The Corporation were compelled to pay him rent for these lands, being then unable to contend with so powerful a foe, or to obtain protection from the then abolished Irish Society. After 1662 the new Irish Society entered into a protracted litigation with the Bishop, which was compromised by an Act of Parliament, the lands given up, and a fixed payment to the Bishop agreed on^(c) of £250 per annum. The Corporation

Oppression
of the
Corporation of
Londonderry.

(a) See the Skinners' lease to Henry Cary, 1742, Appendix, &c., p. 352.

(b) See evidence of Robert Stuart, Kilrea, 1882.

(c) Report of Commissioners on Municipal Corporations in Ireland, 1854.

immediately applied to the Irish Society for the lands (really their own), offering £140 10s. per annum as rent. The Irish Society refused, insisting on £200 a-year, *and the insertion of a clause to the effect that the only title of the Corporation was derived from this letting*; thus setting at nought the arrangements of King James, and despoiling the Corporation of Derry of the last fragment of their 4,000 acres—except the Sheriff's Mountain (waste), for which they imposed rent (£28 per annum) for the first time in 1820.^(a)

Loans from the
Companies,
1689.

However, the Irish Society did not pretend that they were not Trustees for the benefit of the city (and the town of Coleraine), for we find them, in 1689, borrowing money, with the sanction of the Common Council, from the Companies, £100 from each, for the repair of the houses ruined by the siege,^(b) which was repaid with interest a few years after. But on 9th June, 1692, "R. Rochfort and D. Cairnes" were appointed by the Society as Commissioners to adopt "the best measures for rebuilding Londonderry, and grant-ing leases."^(c) That is, the Society, instead of rebuilding themselves, held out inducements to the almost ruined inhabitants to do so. In strange contrast to the fair promises of this time is an entry of 15th September, 1713. "It was" made a standing order of the Society that no leases should "be renewed until within three years of their expiration."^(d)

Still
descending.

The lowest
deep.

To this rule, so admirably adapted to retard progress, was added another of similar character in 1733, 12th October. "The Society resolved not to grant any leases "for a longer period than forty-one years, or three lives "certain, except in cases of new building, and then for sixty-one years;"^(e) followed on 29th March, 1734, by "The "Society, at this period, did not consider themselves bound "to respect any tenants' rights to renewal, and in many "cases accepted the proposals of strangers;"^(f) and on 12th

(a) Report of Commissioners on Municipal Corporations in Ireland, 1854.

(b) Appendix to Case for Respondents, p. 212.

(c) Concise View, 1822, p. 77. (d) *Ibid.* p. 89. (e) *Ibid.* p. 106. (f) *Ibid.* p. 107.

December, 1752, "The Society directed that all lands and "houses then out of lease should be advertised, in order to "ascertain their true value."^(a)

Here we have rules of practice fully established by the Companies-ridden Irish Society, as well adapted to retard the progress of the city as the ingenuity of man could devise, and totally opposed to the principles that prevail in all important and improving cities and towns; viz.—1st, Short and terminable leases only; 2nd, Refusing renewal until within three years of expiration; and 3rd, Disregarding all the just claims of tenants for renewal, or repayment of outlay, and giving preference to strangers who will pay the Society more for the *property erected by the industry of the ousted occupiers*. Could landlordism possibly take a mere oppressive form? The effects were so marked in the decay of the city, that in 1766, on the recommendation of Alderman Alsop's Committee, it was deemed necessary to offer leases in perpetuity. The conditions, however, showed the spirit of greed to be still alive, as they involved an increase of rent by 20 per cent. clear of all deductions, the payment of one year's rent, so increased, or in case of six months' delay, two years' rent, as a fine every seven years, or at the fall of every life, the holding every life three years absent from Great Britain and Ireland to be dead, and a fee on each renewal of three guineas to the Secretary,^(b) this fee being afterwards shuffled in as additional rent.

A faint
glimmer
of light.

The Corporation had long held under the Irish Society what were called the "Common Holdings," including the ferry over the river Foyle, at the rent of £42 3s. 4d. Irish. The lease having expired in 1820, part of these holdings was severed by the Society, and for the rest (exclusive of the ferry, leased for £20 in perpetuity in 1790) the rent of £600 British (!!!) was imposed, including the £28 now first charged for the Sheriff's Mountain, this latter being a

Rack-renting
extraordinary
in 1820.

(a) Concise View, 1822, p. 119.

(b) Minute of Irish Society, 30th August, 1766.

distinct usurpation.^(a) In 1820, the rent of the Corporation for the quays, *built by the Corporation at a cost of about £15,000*, though the Irish Society were liable for this improvement, was raised from £6 13s. 4d. to £350 15s.^(b)

Education
neglected.

Further, as to education, notwithstanding King James' requirement that one Free School at least be founded in every county, we find as late as 1849 no provision whatever made for this purpose in County Londonderry, although urgent orders were frequently made on the subject by King James I.^(c)

This transformation of Trustees for public purposes (for so the Irish Society still confess they are) into grasping landlords over their *cestuis que trust*, though perhaps the worst evil introduced under the absolute rule of the Companies (for it has so far proved *permanent*), is far from being the only one. A few others must be briefly referred to, before passing from this long period of midnight darkness.

Here we have to thank the Skinners' Company for letting in, however much against their true intention, the fierce light of publicity on the dark misdeeds of the Companies during their long and undisturbed reign.

Gratuities to
employés and
others.

The first gratuity on the books is 20 guineas to Mr. Secretary Coventry in 1675, and 10 guineas to his secretary^(d), and to the secretary, clerk, and officer of the Society, £22 in all. In 1678 we find £400 voted to Mr. Davis, *in addition to his account*,^(e) and in the same year £50 to the secretary, and £20 to his assistant, *besides their salaries*. In 1681, £60 to the secretary, and £20 to his clerk.^(f) In 1682, 40 guineas to Mr. Davis. In 1683, 60 guineas to Mr. Davis,^(f) besides several other smaller

(a) Report of Commissioners on Municipal Corporations in Ireland, 1854.

(b) See "Duties of Irish Society in reference to the Port and Harbour of Derry;" *The City and Liberties of Londonderry and the Irish Society*, 1854, p. 23.

(c) Return to the House of Commons, August, 1849.

(d) Appendix to Case for Respondents, p. 363.

(e) *Ibid.* p. 364. (f) *Ibid.* p. 365.

gratuities. In 1692, again, we find gratuities to R. Rochfort^(a) and several minor employés; and in February, 1794, £250 to the secretary, and £50 to his officer, with the intimation that these were the same as the gratuities of the previous year.^(b) Doubtless, the complete books, if available, would show many more cases, for it is not probable a system continued from 1675 to 1696 was suddenly intermitted till 1793.

The gross abuse of the Trustees paying themselves out of the Trust funds for attendance at Courts and Committees appears to have been first introduced in 1682, at all events that is the date of its being first publicly recorded. On 13th October of that year it was resolved that 40s. be divided among those who make a Court, and 20s. among those that make a Committee, the Governor to have a double share, and the Deputy a share and a-half.^(c) The evil thus began on a comparatively modest scale, but it soon assumed larger proportions. We find in 1683, £36 ordered to be paid to members; in 1684, £36; in 1685, £33; in 1686, £38; in 1687, £41; in 1692, £59; in 1693, £52;^(c) in 1734, £283; in 1735, £175; in 1736, £171.^(d) This malpractice has continued, and we find the sums vastly increased in more recent times. Thus we find in the accounts of the Society from 1825 to 1832 inclusive the item "Allowances to Members" set down as £308 in 1825; in 1826, £264; in 1827, £228; in 1828, £473 10s.; in 1829, £506 15s.; in 1830, £424; in 1831, £615 10s.; and in 1832, £593 15s.^(e) However, the General Statement of Receipt and Expenditure presented by the Secretary for the year 1877 shows only £371 19s. under this head, so that perhaps the light of publicity may be introducing a partial improvement. But the practice of Trustees paying themselves out of the Trust fund is repugnant to all principles of law and equity, even if it were not the fact that much of their

Trustees
paying
themselves
for the
performance (?)
of their duties.

(a) Appendix to Case for Respondents, p. 384.

(b) *Ibid.* p. 396. (c) *Ibid.* p. 366. (d) *Ibid.* p. 396.

(e) Case for Appellants, p. 250.

conduct has been a systematic and continuous violation of their duties as Trustees.

Dinners and
other tavern
expenses.

In May, 1680, we find an order to entertain to dinner at the expense of the Society (*i.e.*, of the Trust money, for the Society has no income but that derived from the Trust property) Lord Massereene and his son, "with such others as his Lordship shall please to bring with him."^(a) In 1689 we find a similar dinner to the Rev. George Walker and his friends^(b) [and this at a time when money was required to be borrowed for repairing the ruined houses of Londonderry!]. In 1696 the Lords Justices and Lord Chancellor of Ireland were similarly invited;^(c) and in 1698 we find the dinner bill £145, of which £50 was ordered to be paid on account.^(d) We find also, in 1737, bills for dinners, &c., audited and ordered to be paid, but the amounts are not given.^(e) And coming down to more modern times, we find the item of "Tavern Expenses" returned in 1825 at £576 2s.; 1826, £266 15s. 6d.; 1827, £489 19s. 6d.; 1828, £498 14s.; 1829, £555 5s.; 1830, £357 18s. 4d.; 1831, £601 13s. 2d.; and 1832, £452 14s. 3d.^(f) This abuse, too, has proved permanent.

Presentation to
members,
of plate, &c.

On February 3rd, 1737, it was ordered that the picture of the Governor should be placed in the Irish Chamber at the Society's expense.^(g) On April 17th, 1739, it was ordered that plate of twenty guineas' value be presented to Alderman William Lecky.^(h) It was also admitted by the Defendants that plate had been presented in November, 1763, to Alderman Alsop; and in October, 1765, to the Mayor of Londonderry, though it was asserted strongly that none had ever been purchased for the use of the Society.⁽ⁱ⁾ It was also admitted by the Irish Society that "when the Society was composed wholly, or for the most part, of members of the twelve Companies," pictures were painted at the expense of the Society—eight in number—

(a) Appendix to Case for Respondents, p. 366. (b) *Ibid.* p. 367. (c) *Ibid.* p. 367. (d) *Ibid.* p. 367. (e) *Ibid.* p. 397. (f) Case for Appellants, in the Lords, p. 250. (g) Appendix, &c., p. 397. (h) *Ibid.* p. 398. (i) *Ibid.* p. 59.

and it was added that "all such portraits are of members "of the twelve Companies."^(a) These qualifications are unquestionably true, and the disclosure illustrates the imprudence of thieves quarrelling and appealing to law to settle their differences ; for in proving these charges against the Irish Society, and in their admission by the Defendants, the Skinners' Company, and the other Companies sympathizing with and supporting them, *were simply proving a case of misconduct as Trustees against their own members.*

It is pleasant to record, to the honour of the reconstituted Irish Society, that this particular abuse has *not* been perpetuated.

The expenses of Deputations to Ireland, though heavy, cannot be fairly called an abuse in the same sense as the previous lines of conduct, as they are part of the necessary management, though they furnish a strong argument in favour of the objection that such a body as the Irish Society are incompetent to exercise their functions *economically*. Complaints, however, have often been made from many quarters, not from the discontented Companies only, that these Deputations are, and are regarded by the members as, not journeys for the fulfilment of a public duty, but pleasant excursions at the expense of the Trust property ; and this would be a legitimate subject for inquiry.

It is pleasant to turn from this dreary list of malversations to another class of actions, unfortunately too few and on too small a scale, which show a practical acknowledgment of the fact of their Trusteeship by the Society during this the worst period in their history.

On July 21st, 1676, was passed a resolution to contribute part of the cost of the repair of churches, when the inhabitants and the ecclesiastics shall have done their part.^(b) On November 8th, 1676, an order was made to pay the schoolmaster's salary (of free school),^(c) and on May 26, 1682, an additional allowance of twenty

Contributions
to Churches,
Schools,
Charities, &c.

(a) Appendix, &c., p. 59. (b) *Ibid.* p. 367. (c) *Ibid.* p. 368.

nobles was voted to the master and usher.^(a) On August 15th, 1689, £10 was voted to Joseph Bennett, in consideration of his poverty, and for services during the siege;^(b) and on December 14th, 1689, a like sum to Mrs. Cocken for similar reasons.^(c) On March 17th, 1694, sixty tons of timber were voted for repairing the court-house.^(d) On September 22nd, 1692, £20 a-year was voted to the usher of the free school;^(e) and in 1695 and 1696, sums of money were voted to sufferers from the siege. In 1739, again, it was voted to build a free school at Coleraine, and to endow the master *during the Society's pleasure*.

Support of
Corporation,
&c.

On April 2nd, 1690, £500 was voted to the Mayor of Londonderry for the relief of the poor.^(f) On December 1st, 1690, £20 was ordered to be paid to the Mayor,^(g) and on July 25th, 1695,^(h) £10 per annum was directed to be paid to the Recorder. In 1695⁽ⁱ⁾ it was ordered to bring an ejectment against the Bishop for the 1,500 acres. (The unsatisfactory and unjust finale of this has been already given.) And on December 11th, 1789, besides other payments to charities, &c., £90 10s. was directed to be paid to the Corporation of Londonderry.^(j) We find also the following items in the accounts from 1825 to 1832:—“Expenses of Schools, Ireland,” is returned at £478 9s. 3d. in 1825; 1826, £389 4s.; 1827, £669 10s. 9½d.; 1828, £522 0s. 4d.; 1829, £382 12s. 8d.; 1830, £439 19s. 9d.; 1831, £438 12s. 4½d.; and 1832, £468 9s. 2d. “Charitable Donations, Ireland,” are given in 1825 at £25; 1826, £222 6s.; 1827, £146 3s. 1½d.; 1828, £208 9s. 3d.; 1829, £349 4s. 7½d.; 1830, £195 4s. 7½d.; 1831, £530; 1832 (the first year the dividend to the Companies was omitted), £1556 1s. 8d.^(k)

Acknowledg-
ment of trust.

All these payments—and no doubt the complete books would show more of the same type—are gratifying in them-

(a) Appendix, &c., p. 368. (b) *Ibid.* p. 368. (c) *Ibid.* p. 369. (d) *Ibid.* p. 369. (e) *Ibid.* p. 369. (f) *Ibid.* p. 369. (g) *Ibid.* p. 369. (h) *Ibid.* p. 369. (i) *Ibid.* p. 369. (j) *Ibid.* p. 400. (k) Case for Appellants, &c., p. 250.

selves as contributions to public and charitable objects, and important as links in the unbroken chain of practical acknowledgments that the Society are and have always been Trustees for public purposes. Similar acknowledgments on the part of the Companies will be given further on.

SECTION III.

THE DAWN OF ENFRANCHISEMENT.

Abolition of
the perpetual
Curacy.

AT last, about the year 1830, the Corporation of the City of London awoke out of their Rip Van Winkle sleep, and realized for the first time the absurdity of having the control of the Companies entrusted to a Committee of the ruled. It was too late for them to cure the evils already wrought, but at least the absolute supremacy of the Companies might be brought to a full stop. Fortified by the opinion of several distinguished lawyers, the Corporation determined in future elections to admit indiscriminately all freemen of the City. In the election for 1831 the great Companies appear to have been almost ignored, and so also in that for 1832, the first result being the ceasing of the division of the "surplus" in the latter year,^(a) and since then the Companies connected with the Irish Estates have been always kept in a minority, but few of their members being elected, and in some years none. Before, however, their ascendancy was completely destroyed, they contrived to introduce a new abuse, for the first and last time. In 1831, the Governor of the Society, Alderman John Thomas Thorp, having been nominated as a Parliamentary candidate for the borough of Coleraine, the Society petitioned against the return of Sir J. Brydges, at a cost of £683 2s. 2d., but found it necessary to withdraw the petition.^(b)

Interference
in politics.

Their candidate next year, Alderman Copeland, was returned on his own petition, but without cost to the Society.^(c) This was one of the grounds on which the Companies charged the Irish Society with misapplication of the funds, but the blame must be distributed.

(a) Appendix, &c., pp. 87, 88. (b) *Ibid.* p. 79. (c) *Ibid.* p. 79.

Not merely were the City justified in electing freemen indifferently, without considering whether they were members of the Companies or not, but it was actually carrying out a long-neglected duty to exclude the members of the Companies *who had introduced and kept up so many violations of the Trusts*. This is proved by the mandatory provision in both Charters that members misbehaving "we will to be *removable and removed*."^(a) But the Companies were, not unnaturally, dissatisfied at the downfall of their long ascendancy (of which, however, they did not venture to complain as of a wrong), and still more so at the loss of the spoil they had so long enjoyed from the rents and profits of the undivided estate. After a long epistolary negotiation, the Companies found the Irish Society, for the first time, unwilling to admit that they had parted with their discretionary control for the benefit of their under-grantees (practically it had been for over a century and a-half scarcely exercised except in delaying dividends, in cases of dispute), and the Skinners' Company boldly rushed into the breach, filing a bill in Chancery, in which they complained of the misapplication of the Trust funds of which the Irish Society had been guilty, *while it was a Committee of the Companies* (omitting only the division of the "surplus," which was treated as a just act, and as giving the Companies a rightful claim to the Trust property of Londonderry and Coleraine), and praying that the Irish Society might be declared Trustees for the Companies of *all* the rents and profits of the undivided property, after the fixed payments and the necessary expenses of management had been deducted.^(b) In this notable thieves' quarrel—for, considering the history of nearly two centuries, it was nothing else—*all* the greater Companies and the majority of the minor ones were on the side of the Skinners' Company, as is proved by their answers,^(c) and their supporting the case of the plaintiffs by

The City right in their new departure.

The great Chancery Suit: The Skinners' Company v. The Irish Society.

The thieves' quarrel.

(a) Appendix, &c., p. 227.

(b) Case for Appellants, Amended Bill.

(c) Case for Appellants, &c., pp. 254-259.

their counsel.^(a) But none of the other great Companies—though urged to do so—was imprudent enough to risk its funds in the venture; all preferred being nominal defendants. Against their will, the Skinners' Company were compelled to join as defendants the City of London, which claimed a paramount authority over both the Irish Society and the Companies, resisting the claim as wholly unfounded,^(b) and also the Attorney-General for the Crown, which, in the interests of the public, asserted its rights for the first time since 1638-39.^(c)

The Crown
awakes also.

All these genuine defendants maintained, and with success, that the Trusts of the Irish Society were for public purposes alone. It is noteworthy that the City of London emphasized the principle, or fact, that *no individual benefit was intended by the King, but the tranquillity of Ireland, and the establishment and promotion of the Protestant religion*, i.e., PUBLIC PURPOSES ONLY.^(d) It was the first time the Irish Society publicly and expressly claimed that they were Trustees for public purposes only, rejecting the *mistaken views* under which they had acted so long; and the Master of the Rolls, in his judgment, declared that these mistaken views "*do not vary the conclusion to be deduced from the Charters, and the circumstances contemporary with the grant of the first Charter.*"^(e) Still it was, perhaps, fortunate for the public that the Irish Society were able to point to a continuous series of acts, even during the darkest period of their history, which proved a tacit recognition by them all along of the public trusts for which they had been appointed and incorporated. The only plausible argument advanced for the Skinners' Company (for the allegation that the City had been their agents was supported neither by facts nor by law) was the fact of the division of the "surplus"

The Trust
for public
purposes only.

(a) Pleadings in Chancery, pp. 363-426, &c.

(b) Case for the Respondents, the Mayor, &c., of London, pp. 6, 7, 20, 22, 38, 40, 43-45, 52, 53.

(c) Case of the Attorney-General, pp. 3-5, 10, 11.

(d) Case for the Respondents, the Mayor, &c., p. 4.

(e) Pleadings, &c.; the Judgment, p. 1246.

for so long a period, and even here a discretionary power was established by the circumstance that the dividends had always been in round numbers, a balance being carried over. But there is one argument used *in terrorem* by their Chief Counsel, Sir W. W. Follett, a former Attorney-General for England, which must not be passed over, as it tells with fatal effect against *all* the pretensions of the Companies, seeing that the case was decided against them, not once, but three times—"If they could convince your Lordship that that undivided property was burthened with any trust, I do not see but that it must of necessity follow that the separated land, the divided land conveyed to the Companies, is similarly burthened. . . . I cannot distinguish between the one property and the other; IF THERE BE A PUBLIC TRUST ON ONE, THERE IS ON THE OTHER."^(a) An argument on which great stress was laid, that the trusts were too indefinite for a Court of Equity to execute them, was completely overthrown by Sir C. Wetherall for the City—"If the Court itself cannot undertake to form such a scheme, and to reduce into precise shape an object too generally expressed, the Crown has a right to interfere and direct the appropriation or distribution by sign manual. *Such has long been the established law.*"^(b) The Master of the Rolls expressed his entire concurrence with this view, and mentioned his practice of acting on it. The same learned gentleman also laid down pertinent law and facts of almost greater importance at the present time—"It is true that the governing body is an English Corporation. . . . But Londonderry and Coleraine are Irish Corporations, the whole property is Irish; *everything that was to be done in execution of the Charter, was to be done on Irish soil and freeho'd*; the enjoyment, the *dominium utile*, is EXCLUSIVELY in the realm of Ireland. Is not the trust, therefore, territorial, as well as the property?"^(c) According to this, the charitable

The Companies Trustees as well.

The power of the Crown to remedy indefiniteness in Public Trusts.

The Trusts as well as the Property Irish only.

(a) Pleadings in Chancery, p. 139.

(b) *Ibid.* p. 814. (c) *Ibid.* p. 870.

donations given *in England* by the Irish Society, which appear in all their accounts, are a misapplication of the trust funds.

QUEM DEUS
VULT
PERDERE
PRIUS
DEMENTAT.

The Bill in Chancery was first filed on 16th July, 1832,^(a) and was first tried on a motion in 1835^(b) that money should be paid into the bank by the Irish Society, and a receiver appointed, and the Irish Society restrained from collecting the rents, &c. This motion was dismissed with costs by the Lord Chancellor (Pepys) in 1836.^(c) Thence the Skinners' Company took the case for trial before the Master of the Rolls, Lord Langdale, and it was dismissed with costs as against the genuine defendants.^(d) As though anxious to secure the highest legal authority in favour of the rights of the public, and against themselves, the plaintiffs appealed to the House of Lords, and the judgment of the Master of the Rolls was most emphatically confirmed.^(e) All along, the Irish Society disclaimed any beneficial interest in the property.^(f)

Lord
Langdale's
judgment.

Lord Langdale, in giving his judgment, after summing up the evidence, said :—" It is, I think, impossible to read "and consider the Charter, without coming to the conclusion "that the powers granted to the Society were more extensive "than, and very different from, any which in the ordinary "course of affairs are vested, or would upon this occasion "have been vested, in mere private Trustees for the benefit "of particular undertakers.^(g) The powers indeed are, many "of them, of a public and political nature, and . . . were "given for the public purposes of the Plantation. . . . "The Companies of London were, with the burthen of under- "taking the plantation of such lands as might be allotted to "them, to receive such benefits as were offered to . . . "ordinary undertakers." . . . "The Charter of Charles

(a) Case for Respondents, the Mayor, &c., p. 46. (b) *Ibid.* p. 46.

(c) *Ibid.* p. 46. (d) *Ibid.* p. 47.

(e) Speech of Mr. Lea, M.P. for South Londonderry, in the House of Commons, June 28th, 1889, p. 10.

(f) See their Case, their Answers, and the Pleadings, *passim*.

(g) Pleadings, &c., pp. 1232, 1233.

"appears to me to be substantially, as it is avowedly, a res-
 "toration of the Charter of James."^(a) "The property is part
 "of that granted for the purposes of the Plantation, and the
 "powers possessed by the Society, as well as the duties with
 "which it is charged, *have all of them reference to the Planta-*
 "*tion.*"^(b) "I AM OF OPINION THAT THE POWERS GRANTED
 "TO THE SOCIETY, AND THE TRUSTS REPOSED IN THEM,
 "WERE IN PART OF A GENERAL AND PUBLIC NATURE,
 "INDEPENDENT OF THE PRIVATE BENEFIT OF THE COM-
 "PANIES OF LONDON, AND WERE INTENDED BY THE
 "CROWN TO BENEFIT IRELAND, AND THE CITY OF
 "LONDON, BY CONNECTING THE CITY OF LONDONDERRY
 "AND THE TOWN OF COLERAINE AND A CONSIDERABLE
 "IRISH DISTRICT WITH THE CITY OF LONDON, AND TO
 "PROMOTE THE GENERAL PURPOSES OF THE PLANTATION,
 "NOT ONLY BY SECURING THE PERFORMANCE OF THE
 "CONDITIONS IMPOSED ON ORDINARY UNDERTAKERS, BUT
 "ALSO BY THE EXERCISE OF POWERS AND THE PERFORM-
 "ANCE OF TRUSTS NOT WITHIN THE SCOPE OF THOSE
 "CONDITIONS."^(c)

On the appeal to the House of Lords, the Lord Chan-
 cellor, Lord Lyndhurst, said:—"The result of all these
 "observations is this, that the objects are public and im-
 "portant; that they were constituted for the purpose of
 "carrying those objects into effect; that those objects are
 "still in existence; that the funds of this district are applic-
 "able to those purposes; that they have a discretion to
 "exercise as to what extent they will apply those funds,
 "and to what objects. If that be so, my Lords, they are
 "*public officers*, invested with a public trust, having a right
 "to apply those funds in discharge of that public trust."
 Lord Campbell expressed his opinion in language of equal
 strength and force.^(d)

The House of
 Lords. Lord
 Lyndhurst's
 judgment, &c.

This famous case forms, as yet, the most important

Transcendent
 importance of
 this case.

(a) Pleadings, &c., p. 1244.

(b) *Ibid.* p. 1245. (c) *Ibid.* pp. 1248, 1249.

(d) Quoted by Mr. Lea, M.P. for South Londonderry, in his speech in the House of Commons, June 28th, 1889, p. 10.

incident in the history of the Plantation since the reign of Charles I., for the following reasons :—

1st, It has finally established, by the decision of the highest legal authority in the realm, that the Irish Society are merely Trustees for public purposes. (This furnishes a strong support indirectly to the arguments proving the Companies to be merely public Trustees, though that question was not in issue.)

2nd, It has finally settled, by the same authority, that the Trusts of the Irish Society are unexhausted and inexhaustible. The importance of this point will appear later on.

3rd, It has let in a flood of light on the management of the Society, and put the public in possession of valuable information as regards their rights, which was not readily available previously.

4th, It has established the rights of the Crown, and has awakened the Crown from the long apathy engendered by the selfish indifference of Charles II.

5th, It has brought to light the worst and most gigantic of the frauds early perpetrated by the Companies, *i.e.*, the spoiling of the woods to the value of £550,666 13s. 4d.

6th, It has been the forerunner of the period of inquiry which ought to end in stripping the Companies of their ill-gotten spoil, and securing its application to Plantation purposes, according to the original intention of James I.

SECTION IV.

OPPRESSION STILL RAMPANT.

THE reform initiated by the City of London in 1830 ended where it began. The purified Irish Society have, it is true, increased their contributions to charitable purposes (one notable example being the founding of a chair in Magee College, with an endowment of £250 a-year, and the gift of £1,000 to the building fund of that institution), but some of this is given in England, as will appear from their accounts. Nor has there been any change for the better in the harshness of their conduct as landlords, in the matter of tavern expenses, or in their opposition to measures calculated to benefit the city or harbour of Londonderry, though they have, under pressure and the fear of an appeal to Parliament, granted £700 per annum to the Corporation of Derry and £500 to the improvement of the city, and now hold themselves (according to the evidence of Alderman Humphrey, Governor in 1854)^(a) bound legally and equitably to continue these payments for ever; and quite recently they seem disposed to contribute large sums to certain special improvements in the city.

Among the Standing Orders of the Society, dated 10th Feb., 1847, are the following:—5th. "That no leases be granted in perpetuity;" 6th. "That no determinable leases be renewed until within three years of their expiration"^(b)—the very same rules that so endangered the very existence of the city as to call for the interposition of Alderman Alsop's Committee in 1766, referred to before. The same spirit is shown in their opposition to the Leasehold Conversion Act, and their endeavours to prevent their tenants getting the benefit of this Act, by threatening legal proceedings when opportunity offers.

(a) City of London Corporation Commission, p. 24.

(b) City and Liberties of Derry, 1854, p. 25.

Expensive
Management.

"The total expenditure (deducting the permanent payments) and costs of management stood to one another in the following proportions in the three periods of ten years from 1818 to 1847 :—

" Years.	Expenses of Management.	Total Expenditure (less permanent payments).
" 1818-27	£33,729	£59,512
" 1828-37	44,198	73,416
" 1838-47	55,985	86,970
" Total,	£133,912	£219,898" ^(a)

It must be admitted that part of this period was during the reign of the Companies, but "the expense of management, and the total expenditure less the permanent payments, from February 1847 to February 1853, stand as follows :—Expenses of management, £21,161 ; total expenditure, £50,292. . . . The existing income of the Society is stated by Alderman Humphrey, the Governor, at about £10,000 a-year ; and he estimates the present costs of management, including an allowance of £600 for legal expenses, at about £3,000 a-year."^(b) The recommendation of the Royal Commission (1854) on the Corporation of London was, "*That the Irish Society be dissolved ; that its Trusts be declared by Act of Parliament ; and that new Trustees be appointed by the Lord Chancellor of Ireland.*"

Legal
Expenses.

Legal expenses are enormous, but it is difficult to know their true amount, as it was found by Sir C. E. Lewis, M.P. for Derry City, in 1876, that much that should come under this head is concealed by being entered under other titles ; e.g., the cost of opposition to Port and Harbour Bill of 1874 (which was passed) was hidden under the item—"*In aid of Public Improvements—Building Expenses, &c., in Londonderry, Coleraine, and Culmore*"!!!^(c)

(a) The Irish Society of London, 1875, p. 13 ; Report of the Royal Commission (1854) on the Corporation of London, &c.

(b) The Irish Society of London, 1875, pp. 13, 14 ; Report of Royal Commission, &c.

(c) The Irish Society of London, its *Expenditure and Account-keeping*, 1876, pp. 3-6, 8, 11, 12.

As to its practical landlordism, we find the following facts among others, sworn in evidence. A tenant in 1832 got a sixty-one years' lease, under which he was bound to expend £750, and did so, and afterwards continued his expenditure till it amounted to over £6,000. He applied for an extension of his lease repeatedly, and in 1847 received the answer that he would be allowed a further new lease of fourteen years, on condition of his augmenting his rent from £112 19s. 2d. to £162 19s. 2d., and giving up all claims to compensation for buildings and improvements.^(a) Another tenant, having purchased a farm, applied for an extended lease, and was offered one for sixty-one years on condition of expending £1,000, but it turned out the sixty-one years was only to apply to twenty acres, and for the other and larger portion only a twenty-one years' lease would be given.^(b) In Coleraine the matter is not quite in so bad a condition, most of the lettings having taken place long since; but there is strong complaint that the Irish Society give no contributions to the Town Commissioners, and nothing to the improvement of the town.^(c) All the witnesses from Derry and Coleraine, examined in 1854 before the City of London Corporation Commission, gave the opinion that the Irish Society are quite incompetent for their duties. It is now time to turn to the Landlordism of the Companies. Here the evidence available to the public is far from complete, nor can it ever be so until the books are compelled to be produced by authority of Parliament. But there is enough to convict the Companies of much rack-renting in practice (quite in the teeth of the 13th Order of Charles I. in 1625), and of a desire for much more. Treatment of Tenants. Landlordism.

During the 17th and 18th centuries four of the Companies sold their estates, *the Irish Society in each case requiring a bond of indemnity.*^(d) A clear proof that the Irish Society,

(a) City of London Corporation Commission, 1854, p. 6.

(b) *Ibid.* p. 7. (c) *Ibid.* pp. 15, 18.

(d) The London Companies' Estates; Short Statement of their History and Management.

even during the darkest period of its history, fully realized its responsibility to carry out to the full the purposes of the Plantation, and enforce their being carried out by its grantees. (These may, therefore, be left out of consideration for the present.)

Improvements
all made by
the Tenants.

The other Companies "demised their estates to middlemen by leases. . . . The landlords spent nothing on "improvements. . . . Lands were drained and reclaimed, "fences erected, and houses built, solely by the industry and "with the capital of tenants. . . . The value of the "Companies' estates at the time of the Plantation was "estimated to be under £1,800 a-year, while the estimated "rental of these estates at present is £124,000.^(a) The "leases to middlemen granted by the other Companies "expired at various times during the present century. . . . "The Companies have since, in every case, by periodical re- "valuations, enormously increased the rental.^(b) . . . A farm "of ninety-six statute acres was held" (on the Fishmongers' estate) "under the middleman at the yearly rent of £7 10s. ". . . The tenant reclaimed a large part of the farm. ". . . On the Company resuming possession in 1820 the "rent was raised at a single bound to £75 a-year. . . . "In 1813 the Skinners' Company leased their estate to "Robert Ogilby for a fine of £25,000, and an annual rent of "£1,500. On resuming possession in 1872 . . . the "rental was raised to £13,000. . . . In 1871 the Cloth- "makers' Company sold their estate to Sir Hervey Bruce. "The rent was raised in 1874 in many instances from 30 "to 80 per cent."^(c)

Rack-renting.

Rents raised
on Tenants'
Improvements.

"Between buildings, roads, drains, fences, and re-
clamation, the tenants have sunk in permanent improve-
ments at least £10 per acre for every acre of arable land
on the estates, or upwards of two millions in all.^(d) The

(a) The London Companies' Estates; Short Statement of their History and Management.

(b) *Ibid.* (c) *Ibid.*

(d) Evidence (1882) of R. H. Todd, LL.D., Solicitor, Derry.

“following tables show the valuation and rents of the
“Companies’ estates at the various periods :—

“ VALUATIONS.					
“ Year.					Amount.
“ 1609	...	...	...	...	£1,800
“ 1697	...	...	...	...	9,150
“ 1758	...	...	...	...	20,000
“ 1858	...	...	...	...	131,000
“ 1882	...	...	...	...	136,000

“ RENTS.					
“ 1635	...	...	...	...	£2,190
“ 1727	...	...	...	...	8,000
“ 1868	...	...	...	...	124,000
“ 1882	...	...	...	...	160,000

“The Skinners’ Company raised the rental by about
“£2,000 a-year over what the middleman, Mr. Ogilby, had
“been receiving.^(a)

“The Fishmongers’ Estate was held by the Beresford
“family, who paid the Company a rent of £400 yearly, and
“exacted £2,000 a-year from the tenants. The last lease
“ . . . expired in 1820. The Company then resumed
“possession, re-valued the estate, and raised the rental to
“£10,000 a-year. The tenants who had improved most
“were subjected to the largest increases, some being raised
“as much as one thousand per cent.^(b)

“The Grocers’ Company, whose estate was sold several
“years ago, still recognise the public claims on the purchase-
“money by continuing their contributions towards local
“religious, educational, and public purposes.”^(c)

One good
example.

“In 1751 the Mercers’ Company leased their estate to
“Stewart, of Ards, for three lives or sixty-one years, for a
“fine of £16,000 and a yearly rent of £420. The last of
“the lives expired in 1832, when the rent of the estate was
“£10,443. . . . The Mercers, on resuming possession

The Mercers’
Company.

(a) Evidence (1882) of R. H. Todd, LL.D. (b) *Ibid.* (c) *Ibid.*

"of their estate, reduced the rental to £8,498, or 19 per cent. nearly, . . . 1855. The Mercers had a re-valuation, . . . the valuers being Mr. Saunders and Mr. Watney, the latter a member of the Mercers' Company. "These gentlemen increased the rental to £10,260. . . . "In 1876 the Mercers sent over Mr. Watney to again value "the estate. . . . Mr. Watney's valuation was about "£14,000. . . . The Mercers sent over Lord Selborne "and three other gentlemen. . . . Lord Selborne issued "an ultimatum . . . all rents raised over 40 per cent. "would be brought down to 40, with an abatement of eight "per cent. ; rents raised from 28 per cent. and upwards, an "abatement of eight per cent. ; rents raised 20 per cent. and "upwards, no abatement. . . . The tenantry would not "take these terms. Over sixty received notice to quit, and "ejectment processes, . . . and decrees granted against "the whole number. . . . They were put into £850 "costs."^(a)

Slade's
Narrative.

Robert Slade's Narrative, 1802, says (of this property) —"A group of nearly naked figures are often seen at the "doors, consisting of the wife and children. The husband "finds the means, by working at his loom, to pay an extra- "vagrant price for four or five acres of land," &c.

The Fish-
mongers'
Company.

In 1872 the Fishmongers' Company proposed to increase their rents (already higher than the principal estates in the county) by amounts varying from 12 to 400 per cent. (the latter being a case where the tenant had reclaimed every foot of ground in the farm, and erected the buildings at his own cost). In many cases the increase was over 100 per cent., and in several over 200 per cent.^(b) These increases would practically have confiscated the tenant-right. Appendix B to the tenants' memorial shows, by a comparison with seven adjoining estates, that the Fishmongers' estate was let *above* the Government valuation, and the others under that valuation. But enough of these sad details.

(a) Evidence of Robert Stuart, Kilrea, 1882.

(b) Memorial to the Worshipful Company of Fishmongers, pp. 9-21.

Practically, whatever they may say in terms, all the Companies have all along acknowledged their Trusteeship by contributions towards some of the objects specially recommended by James I.—viz., religious and educational, by occasional donations to the poor, and by the erecting or repairing of public buildings. Without going into details, it is sufficient to quote figures from the returns made by the Companies to the City of London Liveries Commission in 1882.

Practical
acknowledg-
ments of
Trusteeship
by the
Companies.

The Mercers' Company return for 1880 the following item :—"Irish estate, including," besides cost of management, "repairs, tithe, maintenance of schools, *drains* and "*roads*, contributions to places of worship, donations for "charitable purposes, for benefit of tenants, &c., £4,837 12s. "9d."^(a) Besides this there is the remark^(b)—"The Com-
pany have guaranted a dividend of five per cent. on £10,000
"of shares in the Derry Central Railway (which passes
"through their estate) for twenty-three years from 18th
"February, 1880. The Company expect to have to pay the
"amount of their guarantee during the whole period."

Mercers'
Company.

The Ironmongers' Company report as to their Irish estate —"Large sums are expended *annually* on the support of
"fifteen schools on the estate, in gifts to various charities con-
"nected with it, in exhibitions and grants to colleges, and for
"improving *roads*, buildings, &c. . . . The Company also
"subscribed £200 towards the preliminary expenses of the
"Derry Central Railway, and guarantee five per cent. on
"£5,000 of the stock for twenty-three years, if necessary,
"and are now paying it, and they gave the land required for
"the railway without charge, and this amounted to forty
"acres."^(c) Again, the "statement of donations to schools,
"clergy, churches, exhibitions, and charities in Ireland" is
given at £4,102 11s. 3d. for the ten years 1870-1880.^(d)

Ironmongers'
Company.

The Drapers' Company make the following returns (in 1834):—"Expended on works of a public nature in Ireland,

Drapers'
Company.

(a) Returns, p. 114. (b) *Ibid.* p. 87.

(c) Returns, p. 45. (d) *Ibid.* p. 62.

"1829, £659 13s. 4d.; 1830, £2,114 13s. 10d.; 1831, £5,557 15s. 8d.; 1832, £2,552 14s. 6d.; 1833, £1,218 4s. 2d.; and "invested in buildings and plantations in Ireland, 1829, "£1,880 3s. 6½d.; 1830, £2,020 2s. 1d.; 1831, £1,925 3s. 4d.; 1832, £3,177 2s. 1d.; 1833, £2,499 4s. 6d.;"^(a) also, "Expended on works of a public nature, and invested in "buildings, improvements, and plantations in Ireland, 1871, "£1,277 11s. 2d.; 1872, £1,321 9s. 10d.; 1873, £990 18s. 6d.; "1874, £2,028 9s.; 1875, 2,452 10s. 7d.; 1876, £1,294 18s. 10d.; 1877, £1,163 2s. 7d.; 1878, £1,215 13s. 5d.; 1879, "£1,968 7s. 5d."^(b) Charities in Ireland are not particularized, but there is the following (in which it is not stated what proportion is expended in Ireland):—"Amount expended "by the Company during the last ten years in furtherance "of general and technical education, 1870, £2,659 5s. 10d.; "1871, £4,352 2s. 5d.; 1872, 2,577 5s. 7d.; 1873, £2,721 18s. 3d.; 1874, £3,684 7s. 5d.; 1875, 3,161 3s. 7d.; 1876, £3,205 2s. 11d.; 1877, £5,482 18s. 11d.; 1878, £7,373 9s. 9d.; 1879, "£7,157 7s. 3d."^(c)

Fishmongers'
Company.

The Fishmongers' Company make the following returns :—"Ireland, charities, 1828-29, £4,805 16s. 6d.; 1829-30, "£4,667 2s. 10d.; 1830-31, £1,205 7s. 11d.; 1831-32, £1,378 17s. 5d.; 1832-33, £1,399 10s. 5d.; 1833-34, £2,063 15s. 10d."^(d) "Seven schools, masters' houses, and gardens in "Londonderry rent free."^(e) "Irish account, grants to "schools, farming societies, and to Roman Catholic and "Presbyterian ministers, 1870, £1,052 7s. 2d.; 1871, £1,142 5s. 8d.; 1872, £2,194 3s. 5d.; 1873, £1,852 12s. 8d.; 1874, "£2,102 1s.; 1875, £1,509 18s. 2d.; 1876, £1,397 15s. 4d.; "1877, £1,906 6s. 2d.; 1878, £1,592 17s. 8d.; 1879, £1,854 2s. 5d. Outlay on improvements, &c., 1870, £1,658 5s. 10d.; 1871, £1,324 12s. 8d.; 1872, £1,092 3s.; 1873, £1,689 5s. 10d.; 1874, £2,317 7s. 5d.; 1875, £2,513 3s. 1d.; 1876, "£1,547 18s. 8d.; 1877, £1,705 0s. 4d.; 1878, £1,409 11s. 9d.; 1879, £1,298 0s. 8d.;"^(f) besides rates, taxes, tithe rent-

(a) Returns, p. 1. (b) *Ibid.* p. 33. (c) *Ibid.* p. 34.

(d) Returns, pp. 2-4. (e) *Ibid.* p. 83. (f) *Ibid.* pp. 85-103.

charge, and county cess. Contributions to churches in Ireland are given from 1870 to 1879 at £286 15s. 10d.,^(a) and seven schools are returned as maintained by the Company.^(b) Annual subscriptions in Ireland, including to an infirmary, orphan societies and mutual improvement societies, schools and one church, are given at—"1870, £34 14s.; 1871, £125 14s.; 1872, £104 11s.; 1873, £106 11s.; 1874, £102 11s.; 1875, £109 11s.; 1876, £109 11s.; 1877, £99 11s.; 1878, £96 8s.; 1879, £112 14s."^(c) Among the recipients of annual grants are enumerated dispensaries.

The Skinners' Company make the following statements:—Skinners' Company.
 "The Skinners' Company, for the purpose of securing the "speedy construction of a railway from Dungiven to Limavady, . . . has recently given the land where the railway "is on their estate, paid £500 towards the preliminary expenses, and guaranteed five per cent. interest on £20,000, "a large portion of the capital to be expended. . . . The "Company make an annual grant to the Rector of Dungiven, and his farm rent free, . . . also annual allowances to Presbyterian ministers and Roman Catholic "priests; provide a large building for schools, pay the "masters' and mistresses' salaries, pay salary of dispensary "surgeon, subscribe to the repair of churches, &c., building "of manses, pay for the cleansing of streets, and subscribe to "everything for the benefit of the tenants, &c."^(d) "They "have also recently guaranteed interest at five per cent. on "£5,000, portion of the capital to be expended in constructing a railway from Magherafelt to Draperstown."^(e) "Grants are *annually* made to schools upon the estate of "the Company in Ireland."^(f)

The Salters' Company return "Donations and subscriptions to Irish objects, 1870-71, £276 2s. 4d.; 1871-72, "£208 16s. 2d.; 1872-73, £146 4s. 9d.; 1873-74, £1,041 16s. "9d.; 1874-75, £1,524 4s. 4d.; 1875-76, £213 18s. 11d.; "1876-77, £208 5s. 11d.; 1877-78, £194 16s. 2d.; 1878-79, Salters' Company.

(a) Returns, p. 115. (b) *Ibid.* p. 116. (c) *Ibid.* p. 112.

(d) Returns, p. 20. (e) *Ibid.* p. 20. (f) *Ibid.* p. 31.

"£93 9s.; 1879-80, £247 18s. 5d.,"^(a) and for religious and educational purposes, "1870-71, £1,244 3s. 2d.; 1871-72, "£1,605 os. 8d.; 1872-73, £1,868 17s. 7d.; 1873-74, £2,526 10s. 1d.; 1874-75, £1,817 os. 1d.; 1875-76, £1,804 2s. 8d.; 1876-77, £1,798 10s. 8d.; 1877-78, 1,900 15s. 1d.; "1878-79, £1,802 10s. 4d.; 1879-80, £1,983 8s. 2d."^(b) They also state^(c) that they have, since 1853, given large subscriptions to the building of churches and payment of clergy.

The Companies that had sold their estates before 1881 (the Haberdashers', Vintners', Goldsmiths', Grocers', and Clothworkers') make no Irish returns, but the Grocers still keep up their contributions (as pointed out before), and the Clothworkers when selling abated £1,500 per annum out of the interest of the money left on mortgage to meet expenditure for public and charitable purposes, out of which it appears Sir H. Bruce allows *only* £150 a-year for the purposes mentioned.

The Deputation of the Skinners' Company, 1873.

The Report of the Deputation of the Skinners' Company to the Court of Assistants, 1873, sheds considerable light on the proceedings of the Companies for good and evil. These gentlemen recommend additional grants to a considerable amount^(d) to the payment of the clergy of different denominations, the repair of churches, and the building and repair of schools,^(e) as well as to the development of railways,^(f) the improvement of the town of Dungiven,^(g) a system of arterial drainage,^(h) and the making and repair of bye-roads;⁽ⁱ⁾ and so far their report is unobjectionable; but there are other recommendations of a very different type. The hint is given that "In the case of the Skinners' Company, it might possibly be held, if the question were "litigated, that the Ulster Tenant-right Custom, though "undoubtedly prevalent, in fact, during the latter part of Mr. "Ogilby's lease, does not in law now bind the Company as

Ulster Tenant-right questioned.

(a) Returns, p. 25. (b) *Ibid.* p. 25. (c) *Ibid.* p. 26.

(d) Report, pp. 24-30. (e) *Ibid.* pp. 30-32. (f) *Ibid.* pp. 47, 48.

(g) *Ibid.* pp. 48-53. (h) *Ibid.* pp. 53-54. (i) *Ibid.* pp. 54-55.

“reversioners ;”(a) rules are recommended, of a very stringent character, for the purpose of limiting and gradually destroying the tenant-right, beginning with the prohibition of open free sale ;(b) and re-valuation is recommended, on the ground that the rents are too low.(c) (It may be noticed here that the usual course for all the Companies has been to have re-valuations at intervals of twenty or twenty-one years, and that in almost every case re-valuation means increase of rent ; but it is seldom that object has been so openly admitted beforehand, as in this instance.) The tables of rentals, &c., appended, show that in almost every case the rent was already *above* the Government valuation, exclusive of buildings.(d)

(a) Report, p. 35. (b) *Ibid.* pp. 37, 38. (c) *Ibid.* pp. 42, 43.

(d) Report, Tables A to F inclusive.

SECTION V.

BRIGHTENING PROSPECTS—THE CLAIMS OF THE
FUTURE.

Prelude to
the Age of
Inquiry.

PUBLIC attention could not fail to be earnestly directed to the self-damaging exposures on both sides that occurred in the ever-memorable case of the Skinners' Company *v.* the Irish Society. For, although the plaintiffs failed at all points on the merits of their case, they elicited many facts that both sides would have been wiser to keep back, and the counsel for the Crown and the City of London, while defending triumphantly the right of the Irish Society to exercise a large discretion, regardless of the Companies, in the administration of their trust property, emphatically declined to endorse, as a whole, the way in which that discretion had been actually exercised; and Lord Langdale, in giving judgment in the clearest and most forcible terms in favour of that discretion, distinctly stated that the Society had in the past adopted *mistaken views* as to their duties and responsibilities. Besides, the definite establishment of the fact that the Irish Society are Trustees for *public purposes alone*, of necessity would draw attention to the position of the Companies *who hold by grants from the Irish Society*, and so the inauguration of the Age of Inquiry was inevitable, though it might not immediately set in. Furthermore, the Crown was not likely to go to sleep again, even if the City of London should do so; and two important principles laid down by Sir C. Wetherall for the City were sure to bear fruit at no distant day, *especially as Sir Charles was on the winning side*. These were—1st, The undeniable right of the Crown to remedy all *indefiniteness* in public trusts, apart altogether from the absolute legis-

Principles
established
in 1833.

lative power of the Crown, Lords, and Commons ;^(a) and 2nd, The fact that the trusts as well as the property are territorial, are Irish only.^(b) In these two principles will be found the main elements for a final solution.

The Trusts
Irish.

The first beginning of the Age of Inquiry was the Commission of 1834, to which some of the Companies sent in returns, while others, not recognising that the ground was beginning to slip from beneath their feet, neglected to do so. No immediate result followed from these proceedings, but from 1854 the inquiries by public authority have become more numerous and searching, with the inevitable result that the pretensions of the Companies to be private landowners, and the claims of the Irish Society to perpetual continuance, are being more and more strongly scouted by intelligent public opinion, and the day of reckoning is visibly drawing nigh. In that year, evidence chiefly regarding the Irish Society was received by the Commissioners on Municipal Corporations in England and Wales, from whose report quotations have already been given showing the contempt with which the Irish Society treated the visitatorial power of the City of London. The most remarkable item in the report of these Commissioners was the following :—"We do not know of any pretext of "argument for continuing this municipal supremacy of the "Irish Society. The Commissioners declined to receive "evidence of the manner in which it is exercised. . . . "But a control of this kind, maintained at the present day "by the municipality of one town in England over another "in Ireland, appears to us *so indefensible in principle* that "our opinion would not have been changed, even if it had "been found (which we have no reason to doubt) that "hitherto it has been conducted with discretion and forbearance." That it has *not* been exercised with either discretion or forbearance, however, is clearly proved by facts which have been already cited in Sec. II. and Sec. IV. from official records, and by the evidence before

The Age of
Inquiry sets in.

Supremacy
over Irish
Corporations
indefensible.

The Irish
Society to be
dissolved, &c.

the Commission on the City of London Corporation^(a) which sat in the same year, and made the remarkable recommendation—"That the Irish Society be dissolved; "that its Trusts be declared by Act of Parliament; "and that new Trustees be appointed by the Lord "Chancellor of Ireland." Among the reasons given for this recommendation were the disappearance in modern times of all necessity of and benefit accruing from connection with the Corporation of London,^(b) the embarrassment unavoidably arising from the distance of the estates,^(c) with the additional expense resulting, and the wasteful and costly management of the recent past.^(d) The figures proving the last point have been already cited.

Commissioners
on Municipal
Corporations,
Ireland.

In 1854 appeared also the Report of the Commissioners on Municipal Corporations in Ireland, which cited several of the misdeeds of the Irish Society in the past, referred to the strong feeling of dissatisfaction prevalent in Londonderry, and complained of the persistent refusal of the Society and their Agent to furnish information,^(e) adding that the only authentic information available relating to the revenues was the evidence of the Secretary before a Committee of the House of Commons in 1824,^(f) to the effect that the income was nearly £7,000 per annum, and the yearly expenditure at Derry and Coleraine, for public purposes, was nearly £500. In close connection with this Report, although twenty-two years later, must be mentioned the investigations of Sir C. E. Lewis, M.P. for the city of Londonderry, in 1876, which resulted in the establishment of two facts:—1st, That expenditure has been hidden by the *deductions* made from the receipts; and, 2nd, That expenditure has been hidden by the *addition* of expenses to items of outlay for public improvements, &c.^(g) All the previous points, and some others, were summed up by Mr.

The Account-
keeping.

(a) Report of evidence, *passim*.

(b) The Irish Society of London: its Expenditure and Management, 1875, p. 16.

(c) *Ibid.* p. 16. (d) *Ibid.* pp. 13, 14. (e) *Ibid.* pp. 9, 10. (f) *Ibid.* p. 10.

(g) The Irish Society of London: its Expenditure and Account-keeping, 1876, p. 16.

Lewis in a speech made to his constituents in October, 1875,^(a) which resulted in a numerously-signed memorial for doing away with the Irish Society,^(b) and appointing new Trustees from local gentlemen who should be "thoroughly independent men of high public character "and standing," and that the new Trustees should apply the *whole* of the funds, after deducting necessary expenses, for the benefit of the city of Derry and the town of Coleraine.

The Reports of the Commissioners for inquiring concerning Charities having a much wider scope than the Companies and the Irish Society, are of importance mainly as supplying from public records the telling evidence of Mr. Lucraft against the Companies, that gentleman having cited his cases, as is shown by the Appendix to his evidence, from vols. 4, 6, 7, 8, 12, 17, 22, and 32.

Charity
Commissioners

The powerful Constitutional agitation in Ulster, which led to the recent legislative reforms for the benefit of Irish tenants, must not be omitted in this connection. Attention was specially drawn to the anomalous condition of the estates held by the London Companies, and to the innovations being made there on Ulster Tenant-right, which was not the least efficient of the causes that led to the Land Act of 1870, the appointment of the Royal Commission under the presidency of Lord Bessborough in 1880, resulting in the more drastic Act of 1881, and the succession of legislative enactments since passed, and by no means completed yet. The disposition evinced by the remaining Companies to sell their estates, and their reluctance to sell to the tenants on fair terms, has been even a mightier factor in bringing inquiry to bear on the entire history, conduct, and position of the Companies. The most telling incidents in the procedure of the Companies in this latest period have been the proposal of the Fishmongers' Company in 1872 to raise rents, already above the Govern-

The Land
Legislation
of 1870, &c.

Proposed
Increase of
Rents by the
Fishmongers'
Company in
1872, and
Sale of the
Clothworkers'
estate in 1871.

(a) The Irish Society of London : its Management and Expenditure, 1875, p. 19. (b) *Ibid.* p. 25.

ment valuation, by amounts ranging from 12 to 400 per cent.,^(a) and the sale of the Clothworkers' estate to Sir Hervey Bruce in 1871, notwithstanding the fact that the tenants made a higher offer,^(b) followed as that was by the increase of the rents in 1874 by amounts ranging in many cases from 30 to 80 per cent., with the result that the rents on an estate where Tenant-right was confessedly unrestricted, became as high as on the adjoining Bruce estate where it had been cut down to five years' purchase of the rent. Next in importance to these must be placed the Report of the Deputation of the Skinners' Company, 1873, already referred to in Sec. IV.

Culmination
of the Age
of Inquiry.

The Royal
Commission
on the Livery
Companies
of London,
1880-84.

The Returns
of the
Companies.

From all these causes, and from the increasing energy displayed by the City of London, under the new municipality of the metropolis, in seeking to ascertain and enforce its rightful claims against the Companies, the Age of Inquiry culminated in 1880 in the appointment of the Royal Commission to inquire into the Livery Companies of London, under the presidency of the Right Hon. the Earl of Derby. This Commission differed from all that had preceded it in receiving evidence from all quarters on all points dealing with the history, constitution, position, and conduct of the Companies, and in demanding from the Companies full returns on all these points, together with any suggestions for reform they might choose to offer.^(c) Returns were in consequence furnished by many of the Companies, and it is worthy of note that all declined to make any suggestions regarding reform, alleging that their conduct and management in all respects had always been everything that could be desired, even while several of them supplied in their returns strong evidence against themselves, compelled thereto by the existence of public

(a) Memorial to the Fishmongers' Company, 1872, Appendices A and B, pp. 9-24.

(b) Correspondence between the Clothworkers' Company and the Deputies of their Tenants, 1871.

(c) Mandate from the Royal Commission to the Officers of the Companies, March 14th, 1880.

records that could neither be questioned nor explained away. One general feature of the returns from the Companies connected with Ireland was the practical acknowledgment of Trusteeship in the accounts of monies expended on public and charitable purposes from year to year in Ireland (already cited in Sec. IV.). Another noteworthy feature was the citing of the Charters under which they exist, thus proving them to be, not clubs, but departments of State for the superintendence and management of trade and manufactures, especially in London. Of the rest of the returns the following are the most interesting points:—

The Clothworkers' Company quote an order of the High Court of Chancery, 1840, directing the application of certain portions of their trust property, and orders and a scheme issued by the Charity Commission dealing therewith, approved by Her Majesty in Council, 26th March, 1878.^(a) The Clothworkers' Company.

The Skinners' Company report^(b) an order of the Court of Chancery, 1828, and control by the Charity Commissioners, 1870–1880, in regard to the charitable bequest of Lawrence Atwell, 1588. Also an order of the Court of Chancery, 1822, modifying the application of the bequest of Thomas Hunt, 1557,^(c) and a similar variation by that Court of the bequest of Sir Andrew Judd, 1553.^(d) Skinners' Company.

The Drapers' Company report various instances of control over their trust properties by the Court of Chancery and the Charity Commissioners.^(e) Drapers' Company.

The Mercers' Company report decrees obtained against them on the information of the Attorney-General for converting to their corporate property the increased rents of Bancks' Charity, 1619,^(f) confirmed on appeal to the House of Lords, 1828; for similar action with regard to Sir Thomas Bennett's Charity^(g) of 1616, confirmed on

The Mercers' Company.

(a) Returns, pp. 14–17.

(b) Returns, p. 9. (c) *Ibid.* p. 11. (d) *Ibid.* p. 12.

(e) Returns, pp. 8–10.

(f) Returns, p. 16. (g) *Ibid.* p. 18.

appeal to the House of Lords, July, 1828; for non-application of Lady Camden's legacies of 1642, in 1831;^(a) and control of Peter Symond's gift of 1586 by the Charity Commissioners in 1824,^(b) and of Dean Colet's estate by the Endowed Schools Commissioners (1876 and 1879),^(c) with some other instances of recent control by the Charity Commissioners. In marked contrast to this, informations on somewhat similar grounds, filed against the Fishmongers' Company, are stated in the Returns to have resulted in every case favourably to the Company.

Mr. Benjamin
Lucraft's
Evidence.

Of the English evidence given before the Commission, far the most important and valuable was that of Mr. Benjamin Lucraft, a member of the London School Board.^(d) Without disputing any of the claims made by Mr. Goschen, M.P., on the same day for the extension of University teaching, this gentleman put forward strong claims on behalf of educational purposes generally, emphasizing most especially the need of technical education for workmen. In support of his position that a large portion of the corporate property of the Companies belonged in justice to educational and charitable purposes, he cited from the Reports of the Charity Commissioners the following gross frauds on the part of various Companies, in converting to their own use property bequeathed under trust for charitable purposes, by not carrying out the expressly declared wish of the founders, and in other ways:—"Armourers' Company: John Scott, £100 to be laid out in freehold estate, dated 1717. The object was to benefit the poor. "The Company still pay only 4 per cent. on the amount of "the original bequest, although the terms were that the "money should be spent on freehold estate. Of course, "having been bequeathed so long ago as 1717, if this money "had been laid out on freehold estate, it would have "produced much more than it does now. Thomas Dring, "original sum £20, for which the Company now grant £4

Conversion
by Companies
of Trust
Properties to
their own use.

(a) Returns, p. 20. (b) *Ibid.* p. 32. (c) *Ibid.* p. 38.

(d) Evidence, 13th day, July 19th, 1882.

“per annum to the poor, and retain the capital, which they
“have held for 160 years. The sum of £20 laid out in pro-
“perty 160 years ago, must yield a very much higher income
“than £4 per annum at the present date. Brewers’ Com-
“pany : Elizabeth Lovejoy, in 1694, gave £180 to be spent
“in land. The Company has held this money in invest-
“ment nearly 200 years, and continues to pay only £9 per
“annum, as provided originally, whereas the property in
“which such money has been invested must have multiplied
“many times. If the money has not been invested in real
“estate, the Company ought to be required to pay as though
“it had been so invested, as they were instructed so to do.
“Barbers’ Company : John Bancks, in 1619, gave a house
“and six acres of land in Holloway, the then yearly rent
“being £17. Of this sum £5 was to be applied to Christ’s
“Hospital, which annuity of £5 was purchased by the
“Company in 1811. The Company were still liable to pay
“the balance for the carrying out of the purposes named
“in the donor’s will, viz., the preaching of seven sermons
“annually. The present value of this large estate cannot
“be ascertained without full powers of investigation, but it
“must be a very large sum. Six acres of land now in
“Holloway must be of immense value, therefore we think
“there ought to be some strict inquiry into the whole of
“that case. And as the income is too great to be applied
“for the encouragement of preaching sermons in the City
“of London, and as the Company have no title to the estate,
“I suggest the application of this money to some useful
“purpose, say to educational purposes, as set forth in the
“Endowed Schools Act, 1869, section 30. Robert Ferbras,
“in 1470, devised two freehold houses in Dowgate Hill for
“the benefit of poor members of the Company. For nearly
“400 years the Company applied the income to their own
“corporate funds, and they appear to have been ignorant of
“the fact that the property was left for charitable purposes,
“until, in 1848, the fact was revealed on their being required
“to give a title for the sale of the property to the Corpora-

"tion. I contend that the money thus applied to the Com-
 "pany's funds for a period of 400 years ought to be restored
 "to the Trust, and be applied in support of actual barbers,
 "not merely for nominal ones. Clothworkers' Company :
 "Samuel Middlemore, in 1647, gave £800 to purchase
 "lands. After possessing this money for over 230 years, the
 "Company continue to contribute only £70 per annum out
 "of their corporate funds. If such money were actually laid
 "out in lands, it must now be worth more than £70 a-year ;
 "if not so invested, the Company should be required to pay
 "the penalty of neglect. Fishmongers' Company : Jeremiah
 "Copping, in 1686, gave £1,800 to be laid out in lands.
 "Had such money been laid out in lands 200 years ago, as
 "directed by the founder's will, it would now have yielded
 "an enormous rental. The Company now pay from consols
 "£71 per annum only. Embroiderers' Company : Mark
 "Howse, in 1629, left £140, with which lands were to be
 "bought. After possessing this money for over 250 years,
 "the Company continue to pay only £7 per annum ; and
 "four years later a sum of £400 was given by the same
 "benefactor to be spent in real estate, then estimated to be
 "worth £20 per annum, for which the Company now pay
 "£14 only. A further grant was made in 1635 ; and for all
 "these only £26 a year is paid. . . . Grocers' Company :
 "Humphry Walwyn, in 1612, left £600 to be spent in houses,
 "the rents of which were to be applied to charitable purposes.
 "The Company pay a rent-charge of £30 per annum, but
 "retain all benefits which may arise from augmented value.
 "William Robinson, in 1633, left £400 to disburse the sum
 "in purchase of lands and houses, but the Company pay four
 "per cent. on the original capital, and claim all benefits
 "obtainable from the increased value. Mercers' Company :
 "Hugh Perry, about 250 years ago, left £270 in lands to
 "yield £13 per annum. The Company pay the original
 "value of £13, and keep the benefit of the increased value
 "for their own use. Dame Joan Bradbury, in 1523, left
 "lands then worth £20 a-year. The object of the trust was

“for carrying out certain superstitious uses (I do not know what those uses were), and to pay 30s. a-year for coal to the poor of St. Stephen, Coleman Street. The Company hold a block of buildings, on ground measuring $8\frac{1}{2}$ acres, in Long Acre, which I believe to yield over £27,000 a-year. The accounts show that they still pay the sum of 30s. to the poor of St. Stephen, Coleman Street. This, I think, is one of the cases that ought to be inquired into. Merchant Tailors’ Company : Sir John Hanbury, in 1639, gave £500 to be laid out in lands ; but the Company have invested the money as they thought fit, and continue to pay less than four per cent. on the original value. Skinners’ Company : Margaret Audley gave £700 to be spent in lands, the income to be applied to charitable purposes. No lands appear to have been purchased, or, at any rate, the benefits of such purchase have never been given to the trust, inasmuch as the original annuity of £35 only is still paid, notwithstanding that the Company have held the capital for 170 years.” (It must be remembered that these cases are merely specimens, not by any means exhaustive, even adding the cases that the Companies have admitted in their returns.) Mr. Lucraft added the suggestion that impracticable trusts should be diverted in accordance with the spirit of the Endowed Schools Act of 1869, specially in favour of technical education. Three specimen cases of such trusts are given in the Appendix to his evidence,^(a) and extravagant doles are strongly complained of, specimen cases being given from Whittington’s Charity, Mercers’ Company.^(a)

Passing over the evidence of witnesses who urged the claims of Magee College on the revenues of the Irish Society, the most important portions of the Irish evidence are those of Mr. Robert Stuart, Kilrea (already quoted in part in Sec. IV.), and other tenants on the estates, who claimed that in case of sale the tenants should be the purchasers on fair, not extravagant terms, and that of

The Irish
Evidence.

(a) Evidence, 13th day, p. 16.

R. H. Todd, LL.D., Solicitor, Derry, which was mainly devoted to proving the Companies to be Trustees, and to putting forth further suggestions as to the disposition of the purchase-money, substantially almost the same as those that shall be urged farther on.

After hearing evidence from the Companies, in which an attempt was made to rebut the charges and claims made against them, and taking the opinions of two eminent legal authorities, who gave a strong though guarded pronouncement in favour of State interference, the Commissioners presented a carefully prepared and voluminous Report, from which the following is an extract :—

The Report
of the Royal
Commission :
Reasons
for State
interference
with the
Corporate
Funds.

“ It appears to us obvious that the State has a right at any time to disestablish and disendow the Companies of London, provided the just claims of existing members to compensation be allowed. . . . We are of opinion that the State should intervene, but only for the purposes of (1) preventing the alienation of the property of the Companies of London; (2) securing the permanent application of a considerable portion of the corporate income thence arising to useful purposes; (3) declaring new trusts in cases in which a better application of the trust income of the Companies has become desirable.

“ The propriety of State intervention as regards the corporate estate of the Companies appears to us to be proved by the following considerations as hereinbefore mentioned :—(1) That the Companies were originally a municipal committee of trade and manufactures; (2) that on their incorporation by the Plantagenet monarchs they became a State department for the superintendence of the trade and manufactures of London; (3) that from the period of their incorporation till 1835 it was necessary to obtain the freedom of a Company in order to become a citizen of London, and that at the present day municipal privileges are enjoyed by the members of the Companies; (4) that much of the real property acquired by the Companies during the pre-Reformation period was acquired for

The Beginning
of the End.

“the promotion of religious or benevolent objects ; (5) that
“their lands, which were confiscated at the Reformation as
“being held to superstitious uses, *were suffered to be redeemed*
“*only upon a representation that the rents were required for the*
“*relief of poverty and the promotion of education* ; (6) that it is
“not improbable that certain of the Companies’ title-deeds
“which were destroyed in the fire would, if preserved, have
“disclosed trusts ; (7) that the law of trusts in its application
“to the increment of the Companies’ city house property
“appears to have promoted the increase of the Companies’
“corporate estate at the expense of their trust estate ;
“(8) that in certain cases trusts to convert charitable
“bequests of money into land have not been executed
“by the Companies, and that such neglect has been
“injurious to the Companies’ trust estate ; (9) that the
“Companies are public bodies, holding realty (a) under
“City of London which has enabled them to acquire the
“licences in mortmain, (b) by virtue of a custom of land
“therein in excess of such licences, and are, therefore,
“*Trustees of their corporate estate for public purposes.*” All
these reasons are sound, the only objection to them being
that (8) is perhaps put a little too mildly (see Mr. Lucraft’s
evidence). It is added—“As regards the Trust estate of
“the Companies, the facts that several of the numerous
“charities of which it consists date from the fourteenth
“century, and that nearly all were founded more than fifty
“years hence, prove, in our opinion, the necessity for a
“revision of the Trusts.”

The recommendations that follow are in the spirit of these reasonings and remarks ; the only point needing to be quoted therefrom is the definition of “works of acknowledged public utility,” to which it is urged that a large proportion (we would rather say *the whole*) of the corporate property should be applied. These are, according to the Commissioners, “(1) Scholastic and scientific objects, *i.e.*,
“elementary education, secondary education, classical
“education, technical education, scientific research ; (2)

Objects of
acknowledged
public utility.

"General public purposes, *e.g.*, hospitals, picture galleries, museums, public libraries, parks, and open spaces ; (3) The improvement of workmen's dwellings, and, where the Companies represent trades, subsidies to the benefit of societies of such trades."

Defects of
this Report.

The claims
of Ulster
ignored.

Mr. Lea's
claim for
Ulster.

This Report may be fairly called the beginning of the end. Its chief defects are, want of complete thoroughness in dealing with the corporate estate, and the ignoring of the claims of Ulster as being outside the scope of the Commission. It is, indeed, a remarkable and very unsatisfactory fact that, apart from the witnesses examined, no one of the advocates of reform hitherto has put forward the claims of Ulster with even an approximation to fairness and fulness, except Mr. Lea, the able and energetic member for South Londonderry. Mr. Lea's language on the subject is:—"Having made this brief reference to what I would term the greedy policy of the London Companies, I now come to the great ground of complaint of the people of the North of Ireland against the Companies—the abstraction of large sums of money from that country. . . . *We do complain that when the holdings are sold the money should go to London*, where certainly it was not earned, and devoted to purposes for which it was certainly never intended. . . . I am prepared to prove that the Companies have no right to withdraw all this money ; to prove this from the records of the Companies, from legal judgments, from the reports of Royal Commissions."^(a) How forcibly does this spirited and patriotic language contrast with the haphazard statements of Mr. Frith, M.P. for Chelsea! After arguing strongly and soundly in support of the proposition (among others) that "The Companies are subject to the control of the Crown, and their lands and monopolous privileges were only granted on condition that they performed certain duties ; they have ceased to perform the duties, but they continue to hold the lands," Mr. Frith makes the following statements, which prove his historical

(a) Speech in the House of Commons, June 28th, 1889, pp. 5, 6.

knowledge, as far the Plantation in Ireland is concerned, to be very hazy and inaccurate:—"As to the Irish Estates ". . . they were *bought* with money levied by the Lord "Mayor on the Companies of London" (two inaccuracies in one clause), "in reality a municipal tax. I think that they "should be disposed of upon equitable terms, and to the "tenants if possible, *and the money made available for the "new Municipality of London*, subject to any equitable "claims on the part of the districts;" and Mr. Burt, M.P., assented to the same mistaken and unjust view.

A Bill was prepared on the lines indicated by the Report of the Royal Commission, but it did not pass into law, a result not to be regretted in spite of the damage thus done to the just claims of London, as the rights and claims of Ireland were passed over. It is true that Mr. Walker, Q.C., then M.P. for County Derry, obtained a promise from some of the members of the then Government *to consent to extend its provisions to Ireland, in order to secure the same beneficial applications in Ireland of Irish property as in London of property situated in the metropolis*; but this, as an afterthought, could hardly have been fully ingrafted on the Bill. To the arguments of the Royal Commission, proving the Companies Trustees for *the whole of their corporate property* (not a part merely, as claimed by the Commissioners), the following considerations may be added:—

1st, The Companies, as being departments of State, incorporated by the Crown for certain purposes which they have long ceased to fulfil, must be held to be *public Trustees* who have violated their trust, and thus forfeited to the State the means of carrying out such trusts. They are in no sense analogous to private clubs, which are entitled on dissolution to distribute their funds among the actual remaining members, because (1) their foundation and incorporation was an act of the Crown in every instance; (2) their purposes were public, and public only; (3) their powers (delegated) were public, and absolute within the limits of the purposes contemplated. It follows that the

The Companies
equitably
Trustees for
THE WHOLE
OF THEIR
CORPORATE
PROPERTY.

State, in dissolving them, is under no equitable restraint in dealing with their funds, except such as may arise from just claims to compensation. The only cases in which such claims can be fairly considered just are the following: (a) In the case of officials thrown out of employment by reform, and holding no other employment; (β) In the case of poor members receiving pensions or donations from the *corporate funds*; (γ) In the case of the representatives of the original contributors to the tax imposed by the City for the purposes of the Plantation, if such can be found, and whether they be present members of the Companies or no. The equitable claim of this last class arises from the fact that the original contributors were never repaid as much as a farthing, the Companies transferring all the monies they received to their corporate funds.

2nd, The Companies, as a matter of fact, have added to their corporate property enormous sums of which they have defrauded the Plantation, while, at the same time, trampling on the rights of the Crown. This item of plunder, far larger than any or all perpetrated in England, consists of the following three portions:—

(a) The spoil of the woods for merchandise, as established by the *scire facias* (quoted in Sec. I.), to the value of £550,666 13s. 4d. Taking into account the changed value of money, this would now represent considerably over a million sterling, even without counting interest! (β) The dividends of the “surplus” received during the Babylonish captivity. These, on the lowest calculation, would now represent between £200,000 and £300,000. (γ) The net rents received from the estates, and carried over to London. It is difficult to estimate this exactly; but it is certainly not an exaggerated estimate to set down the total of the three portions of the plunder as at least two millions sterling! (We do not add the proceeds of the sale of some of the estates in the past, as we claim all that for Ulster.)

To the arguments already given (in Sec. I.), proving the

Companies Trustees for public purposes in regard to their Irish estates, may be now added the following, derived from the history of their relations to Ireland :—

The Companies
Trustees for
their Irish
Estates.

5th, That they have all along practically acknowledged the fact (see cases cited in Sec. II. and Sec. IV.) by contributions to churches and clergymen, schools and schoolmasters, public buildings for commercial and legal purposes, orphan societies, local societies of various kinds, dispensaries, infirmaries, roads, arterial drainage, building, paving, and cleansing towns, &c., and, in the present century, railways.

6th, That they were treated as Trustees responsible to the Crown in the sequestration in the reign of James I., the Articles of Charles I. in 1625, the informations in the Star Chamber, the judgment of the Star Chamber, and the *scire facias*.

7th, That the highest legal authorities, some speaking for the Companies, have recognised the effect of the judgment of the House of Lords in 1839 to be that the Companies are Trustees for public purposes; Sir C. Wetherall adding that the trusts, as well as the property, are territorial.

To the objection, which has been actually raised, that some of these arguments would prove private gentlemen who are landlords to be also Trustees for public purposes, it is sufficient to reply—(1) The original private undertakers were Trustees for one definite purpose under the Orders and Conditions, but this trust was temporary, and ceased when once the lands granted to them were settled with tenants at the *easy rent of undertakers*, and the provision for military defence completed. Whatever faults may, in some cases, be found with their successors, will come under a totally different heading from violation of public trust. (2) The Londoners, on the contrary, were bound also by the Motives and Reasons, &c., by the Articles of Agreement, the Charters, and the Orders of Charles I. in 1625, which, taken collectively, imposed many *permanent* trusts,

pronounced by the House of Lords, as to the part that came before them, to be unexhausted and inexhaustible. There is, therefore, no parallel whatever between the case of the Companies and that of private landlords.

Who are the
beneficiaries?

The only question, then, remaining for solution is, Who are in equity and justice the beneficiaries?—the tenants on the Companies' estates? or London? or the general public purposes of the Plantation, and specially of the county of Londonderry, the city of Derry, and the town of Coleraine? The points that have been already established by unanswerable arguments will enable us to solve this question without much difficulty.

Not the
Companies'
Tenants,
whose claims
in this respect
are only
indirect.

It is with regret that we are forced to conclude that the Companies' tenants have no direct claim on the purchase-money of the estates or the revenues of the Irish Society. They have been rack-rented most mercilessly in nearly every case, and robbed of the fruits of their own industry, and this would, if the Legislature admitted the principle of restitution, give them a strong direct claim on the past rents levied by the Companies, which would so far diminish the fund available for the claims of London. But we have not a particle of evidence to indicate that they were intended by James I. or Charles I. to reap any more benefit than what would result from their holding land at easy rents. Their claim to benefit indirectly from the due disposal of the funds is, however, too strong to be ignored. Their industry has created most of the present value of the property; they have been rack-rented without mercy in defiance of the wishes of James I. and the express command of Charles I.—this rack-renting being one of the serious offences punished by the *scire facias* and the Star Chamber's judgment; they have been forced to pay rent for the wastes that were intended to be theirs without charge, or deprived of those waste lands altogether—attempts have been even made to deprive them of the property which modern legislation has aimed at protecting; they have been forced to bear a part of the public

burdens which ought to have been discharged by the Companies; they have been robbed of the benefit of the woods, intended mainly for the Plantation, though in part for the rest of Ireland as well. (In this respect, as in all others, the case against the Companies is strengthened by the 70,000 acres unduly obtained.) All these facts make an overwhelming case for indirect benefit, much stronger than that of dwellers in the rest of the Plantation. It will be shown afterwards how this claim may be satisfied, in part at least. But the tenants have, beyond all doubt—if the spirit of James I.'s intentions and regulations is to be at all respected—a direct claim to be the purchasers of the Companies' estates, and that on reasonable terms, not on the basis of the rack-rents.

It must be admitted that the claims of London against the Companies cannot be gainsaid or explained away. But it is not less clear that these claims apply only to the corporate estate and the trust property in England, and do not extend to the Irish estates or the revenues of the Irish Society. This is conclusively proved by the following considerations:—

Not London
in any sense
whatever.

(α) The advantages offered to the City of London, as an inducement to undertake the Plantation, were merely commercial and manufacturing, together with the settlement of a superabundant population in positions where they could make an easy livelihood. No personal or individual gain was contemplated for, or offered to, any but the actual settlers. This was perhaps, as has been often suggested, the strongest reason for the reluctance of the City at first, and the Companies afterwards.

(β) Even if the claims of London against the lands were as large as some persons seem to think, the conduct of the Companies has created a fund more than sufficient to meet those claims. The sums—which, as has been pointed out, are fully two millions sterling—of which the Plantation has been robbed by the Companies, render the corporate property the natural fund to meet the rightful claims of

London, and are sufficient to satisfy these claims to the full. Indeed, it might be argued that the enormous amount of these sums gives the Plantation a claim on the corporate fund. We do not, however, insist on this, though we do claim most emphatically for Ulster the entire proceeds of the estates in County Derry that have been sold, as well as the purchase-money of those that yet remain unsold.

But the public purposes of the Plantation, and especially of the County of Londonderry, the City of Londonderry, and the Town of Coleraine.

By the method of exhaustion, then, we find that the only rightful direct beneficiaries are the public purposes of the Plantation, and especially of the county of Londonderry, the city of Londonderry, and the town of Coleraine. This is what the very language of all the public documents issued by James I. on the subject would inevitably lead to, more especially the Charter, where it recites the powers of the Irish Society, and the purposes for which they are granted. It is further confirmed by the judgment of the House of Lords in 1839, and by the arguments used in the pleadings in Chancery, 1838, especially the famous saying of Sir Charles Wetherall, that the trusts, as well as the property, are *territorial*, are Irish only. As for the revenues administered by the Irish Society, it is needless to refer to them particularly, for the repeated decisions in the great Chancery suit have settled beyond question that they belong exclusively to the two Corporations of Derry and Coleraine, and the lands, harbours, &c., thereto attached (as has been repeatedly claimed by Sir C. E. Lewis, former M.P. for Derry City, and many others). It must be repeated here that the claim of the Plantation is in one sense retrospective; it includes the purchase-money received for the estates sold in the past; the Haberdashers', the Goldsmiths', the Vintners', the Grocers', the Clothworkers', and the Salters' Companies are no more entitled to remove the monies received for the estates to England than are the Skinners' or the Mercers' Company, who have not yet sold. (It must be added, too, that the former tenants of the Clothworkers' Company are in justice entitled to redress of the wrong inflicted on them in the sale to Sir

Hervey Bruce, by having that sale cancelled, and themselves substituted as purchasers, and, if possible, restitution made to them of the increased rents in which they have been mulcted since 1874.).

How, then, ought the funds to be allocated so as to secure the just rights of the beneficiaries, and meet the indirect claims of the tenants (and others)? The exact details of such a measure is for the Legislature to settle (or a Royal Commission, if that machinery should seem expedient for a final settlement); but the following is an outline of what will be a just and satisfactory arrangement:—

How the
Funds should
be allocated.

1st, A portion of the fund—how much must be left to the Legislature to determine—ought to be employed in the relief of local burdens, such as poor-rates, county cess, &c. The justice of this is amply proved by the fact that some of the Companies have (occasionally at least) made contributions for these and similar objects. In this way the tenants would be indirectly benefited. Indirectly, also, they would share with other residents (in Co. Londonderry and the Plantation generally) in the benefits arising from the more direct application of the funds to general public purposes.

2nd, A portion—probably the larger portion—of the funds ought to be applied to purposes of acknowledged public utility (to use the words of the Royal Commission), chiefly within the County of Londonderry, but not necessarily confined to it, as the rest of the Plantation ought in some measure to share the benefit. These should be—

(1) Educational and religious purposes—contributions to churches and clergy (of different denominations), schools and schoolmasters, including new schools where needed, whether elementary or advanced; colleges, and the support and development of technical education, including in this the instruction in the best modern agricultural improvements of all farmers willing to profit by such instruction.

(2) Objects of general public utility, such as public libraries, museums, scientific societies, court-houses, police

barracks, asylums, hospitals, infirmaries, dispensaries, almshouses, outdoor relief of the poor in special emergencies, and similiar objects.

(3) Works of special utility, such as the improvement of workmen's houses and labourers' dwellings, sanitary reforms of towns, and the development of special trades in localities suited for them.

(4) Means of communication—railways, roads (highways and bye-ways), improvement of the quays and harbours of Derry and Coleraine and any other suitable ports within the Plantation.

(5) Direct development of the resources of the Plantation—utilizing for manufactures, &c., the water-power of the Bann, the Foyle, and other rivers; subsidies to the sea fisheries, development of commercial communication with Great Britain and elsewhere, and arterial drainage.

This list is but an outline, put forward by way of suggestion, not as exhausting the subject.

We may conclude by claiming that we have proved, beyond the possibility of cavil, the two points that must serve as the foundation of sound legislative reform in the immediate future:—

1st, That London is entitled to the corporate property of the Companies for public purposes. London in this connection is by moderns usually employed to mean the whole metropolis, and we have no quarrel with this extended use of the name.

2nd, That the Plantation, especially the county of Londonderry, the city of Londonderry, and the town of Coleraine, is entitled absolutely to the revenues administered by the Irish Society, and to the whole of the purchase-money of the Companies' estates in County Derry, retrospectively as well as prospectively, and this, too, for public purposes.

The indefiniteness of some of the trusts is no objection to this or any similar scheme, for the power of the Crown to rectify this indefiniteness in the case of public trusts by

Conclusion.
The two
main points
established :
Indefiniteness
no difficulty
in the way
of these.

sign manual is an established principle of law. And over and above all, there remains the absolute legislative power of the Crown, Lords, and Commons, to which, in the last resort, must be our appeal to sweep out of existence wrongs under which our people have been groaning for nearly three centuries. The Trusts being once declared by proper authority, the Courts would find no difficulty in enforcing them, if necessary, against the new Trustees. But this necessity could scarcely arise, if, in accordance with the prayer of those most directly interested in the coming reform, care is taken to have the new Trustees chosen from local gentlemen of independent position and high character for integrity and administrative ability.

